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MAR 25 2010
STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MILL CREEK WATER)
RECLAMATION DISTRICT)
)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY; GRAND)
PRAIRIE SANITARY DISTRICT)
)
Respondents.)
)

Case No. 10-74
(Permit Appeal)

ORIGINAL

NOTICE OF APPEARANCE

I hereby file my appearance in this proceeding on behalf of Petitioner Mill Creek Water Reclamation District.

DATE: March 25, 2010

By 
Nathan W. Lamb

Nathan W. Lamb
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DATE: March 25, 2010

By Donald J. Manikas
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Case No. 10-74
(Permit Appeal)

ORIGINAL

PETITION FOR REVIEW OF IEPA PERMIT DECISION

NOW COMES Petitioner Mill Creek Water Reclamation District ("Mill Creek" or "MCWRD") pursuant to the Illinois Environmental Protection Act, 415 ILCS *et. seq.* (the "Act") and 35 Illinois Administrative Code § 105.200 *et. seq.*, and hereby appeals the decision of the Illinois Environmental Protection Agency's ("IEPA") to issue permit Nos. 2010-AA-2825 and 2010-AI-3153 on February 19, 2010.

In support of this Petition, Petitioner states as follows:

1. Mill Creek was established in November of 1992 and provides potable water and sewage treatment for the Mill Creek Planned Unit Development and other properties within its Facility Planning Area (“FPA”). Mill Creek currently provides potable water and wastewater treatment to approximately 2000 homes. The property served by Mill Creek is generally located west of the municipalities of Batavia and Geneva and west of Randall Road in Kane County, Illinois.

2. Respondent, Grand Prairie Sanitary District (“Grand Prairie”) was established in 2002. Unlike Mill Creek, Grand Prairie has no facilities and serves no customers. Its boundaries encompass a 1247+ acre parcel which has been zoned as a planned unit development (“Settlements”) by Kane County. The Settlements is located entirely within the boundaries of the Mill Creek FPA.

3. Respondent IEPA is an agency of the State of Illinois, established pursuant to Section 4 of the Environmental Protection Act, 415 ILCS 5/1.

I. FACTUAL BACKGROUND

4. Mill Creek is the Designated Management Agent (“DMA”) for the Mill Creek FPA. In 2006, the owners/developers of the Settlements joined with Mill Creek and others to petition NIPC (now “CMAP”) to enlarge Mill Creek’s FPA to include the Settlements. On October 18, 2006, CMAP’s Wastewater Committee approved Mill Creek’s request to include the Settlements. Grand Prairie never objected to the enlargement of the Mill Creek FPA.

5. The owners/developers of the Settlements also submitted a zoning application to Kane County. In connection with their attempts to obtain approvals from Kane County, the owners of the Settlements represented to Kane County that their development would be serviced by Mill

Creek, and they provided in their zoning application that they would annex the Settlements into the corporate boundaries of Mill Creek. The Settlements' planned unit development, as issued, contemplates that Mill Creek will serve the Settlements. Again, Grand Prairie never objected to the zoning proceedings in Kane County.

6. In reliance on the requests of the Settlements' owners, Mill Creek prepared plans, drawings and specifications for the necessary infrastructure and improvements to serve the Settlements, and completed or caused others to complete numerous infrastructure improvements to serve the Settlements development. Mill Creek also sought and obtained IEPA permits for construction and operation of improvements to Mill Creek's water supply and sewage treatment systems to serve the Settlements. On March 16, 2007, the IEPA issued Permit No. 2003-GO-5061-5 authorizing Mill Creek to provide service to the Settlements. (Exhibit A). On November 6, 2008, the IEPA issued an additional permit to Mill Creek No. 2008-GO-1239, authorizing Mill Creek to expand its sewage treatment plant and irrigation area to serve its 2000 customers as well as the Settlements. (Exhibit B). (Permit Nos. 2008-GO-1239 and 2003-GO-5061-5 shall hereinafter be called the "Mill Creek Permits."). Grand Prairie did not object to the issuance of these permits.

7. Mill Creek stands ready to serve the Settlements and annex the Settlements property into Mill Creek's corporate boundaries on a reasonable basis.

8. In April 2009, Grand Prairie, with full knowledge that the IEPA had previously issued the Mill Creek Permits, applied to CMAP to install and operate a sewage treatment facility to serve the Settlements property within the Mill Creek FPA. Mill Creek objected to this application and

participated in various meeting before the Wastewater Committee regarding Grand Prairie's request. (Exhibit C, Aug. 12, 2009 Meeting Minutes; Exhibit D, Sept. 9, 2009 Meeting Minutes).

9. In reviewing Grand Prairie's application, the CMAP staff made a recommendation of "Non-Support" to the CMAP Wastewater Committee. (Exhibit E). The August 12, 2009, Staff Report contains various reasons for "Non-Support." *Id.* Some of these reasons are as follows:

The proposed development [Settlements] is currently located within the Mill Creek Water Reclamation District FPA. Mill Creek's Reclamation and Reuse Plant is also a land application system, has been in operation for 15 years, and does not involve the discharge of treated effluent to surface waters.

MCWRD, in a letter dated March 31, 2009, objected to GPSD's request to provide wastewater service to the proposed development. MCWRD noted that "the Settlements of LaFox developers initially approached the MCWRD about the possibility of annexing into the MCWRD in 2005." (Mill Creek Water Reclamation District letter dated March 30, 2009). Based on this request, on October 18, 2006, the MCWRD requested an expansion of both its FPA boundary and land treatment system to include the proposed development. This request was reviewed and approved by both the Northeastern Illinois Planning Commission (NIPC Water Quality Review # 06-WQ-168) and the Illinois EPA. Since that time, MCWRD has incurred \$582,000 in costs. They have "prepared plans, drawings and specifications relating to the necessary infrastructure and improvements, and obtained permits from the IEPA for construction and operation of improvements to its water supply system and its wastewater recycling facilities to serve the Settlements of LaFox Development." (Letter Mill Creek Water Reclamation District letter dated March 31, 2009). (See breakdown of MCWRD's costs in Review Criteria No. 5 associated with the construction of infrastructure in preparation for serving the proposed development.) Granting approval of the GPSD request would undermine efforts and waste funds already expended by the MCWRD to provide service to the proposed development.

Undermining infrastructure investments of designated management agencies does not fit into the context of the Facility Planning Area process. Facility Planning Areas are defined as areas considered for

possible wastewater treatment service (the “service envelope”) within a twenty year planning period as specified in 40 CFR 35.2030(b)(3). Once approved by the IEPA, an FPA is an area in which a DMA has the right to plan, design, construct, own, and operate sewer facilities (wastewater treatment plants, interceptors, collection systems, etc.) and to apply for federal and/or state funds and permits associated with the construction of these wastewater facilities. Granting GPSD’s request would undermine this objective.

Staff also cannot ignore the precedent of regionalization that has been established by the Chicago Metropolitan Agency for Planning and its predecessors, the Northeastern Illinois Planning Commission (NIPC) and its former Water Resources Committee. The promotion of regionalization has been established and outlined in the *Water Quality Management Plan Amendment Process and Procedures* manual, Appendix V, which provides procedures for determining compliance with point source management policies. The manual states: “Another recommended alternative is to evaluate regional treatment options which typically provide a more reliable level of effluent quality than small wastewater plants.” This approach involves constructing one wastewater treatment facility to serve multiple communities, where two or more plants may otherwise have been built. This approach discourages small conventional treatment plant discharges which often experience failure. Therefore, CMAP and its predecessor NIPC strongly encouraged regionalization of treatment facilities where possible. Granting approval of GPSD’s request would undermine this precedent.

Id.

10. The Wastewater Committee of CMAP did not issue a recommendation of support for Grand Prairie’s request. On September 15, 2009, Dawn Thompson of CMAP sent Amy Walkenbach of the IEPA a letter enclosing various documents submitted to CMAP and stating that, on the basis of a two-to-two vote, “a recommendation of either support or nonsupport cannot be provided.” (Exhibit F).

II. MILL CREEK RAISED ITS OBJECTION WITH THE IEPA

11. After learning of the CMAP decision regarding Grand Prairie's application, on November 25, 2009, Mill Creek wrote to the IEPA raising its objections to the issuance of the permits requested by Grand Prairie. (Exhibit G).

12. In that letter, Mill Creek stated:

Mill Creek wants to make sure that the Grand Prairie IEPA permit applications will be acted upon only after written notice to Mill Creek and with due consideration of the facts and applicable law, which in fact preclude issuance of permits to Grand Prairie. It is important to remember that the Settlements property is located in Mill Creek's FPA and that Mill Creek is the DMA of that FPA. Further, Mill Creek has already been issued the permits described above to allow its system to serve the Settlements. **Needless to say, Mill Creek strongly objects to Grand Prairie's proposed actions within Mill Creek's FPA.**

Id. (emphasis added).

13. The Mill Creek Engineer, Sheaffer & Roland, also voiced Mill Creek's objection to the IEPA. On October 13, 2009, Sheaffer and Roland wrote, "MCWRD hereby objects to the [Grand Prairie] request for amendment of the Water Quality Management Plan (WQMP) to construct a new land application system in the [Mill Creek FPA]." (Exhibit H).

14. As the DMA of the Mill Creek FPA, Mill Creek should have been included in any decision-making process before the IEPA.

III. THE IEPA'S FINAL DECISION AND ISSUANCE OF PERMITS

15. No representative from the IEPA contacted Mill Creek between November 25, 2009 and February 19, 2010. No public hearing was held by the IEPA regarding Grand Prairie's application.

16. Despite Mill Creek's objection and request that action on the Grand Prairie's application only be taken after notice to Mill Creek, on February 19, 2010, the IEPA issued Permit No. 2010-AA-2825 to Grand Prairie for the construction and operation of a Wastewater Treatment Facility and Irrigation System to serve the Settlements. (Exhibit I). Permit No. 2010-IA-3153 was also issued on February 19, 2010 to Grand Prairie for the construction and operation of Pump Station and Generator Building for sanitary sewer services for the Settlements. (Exhibit J). (Permit Nos. 2010-AA-2825 and 2010-IA-3153 shall hereinafter be called the "Grand Prairie Permits.").

IV. GROUNDS FOR APPEAL

17. In issuing the Grand Prairie Permits, the IEPA violated Federal Law and IEPA rules.

18. The issuance of the Grand Prairie Permits violates the Clean Water Act. Section 33 U.S.C. § 1288(d) provides:

After a waste treatment management agency having the authority required by subsection (c) of this section has been designated under such subsection for an area and a plan for such area has been approved under subsection (b) of this section, the Administrator shall not make any grant for construction of a publicly owned treatment works under section 1281 (g)(l) of this title within such area except to such designated agency and for works in conformity with such plan.

19. Mill Creek, as the DMA of the Mill Creek FPA, has already been issued permits to expand its facilities to serve the Settlements, which is located within the Mill Creek FPA.

Under these circumstances, Federal Law prohibits the subsequent issuance of permits to Grand Prairie to build a treatment facility within Mill Creek's FPA.

20. The IEPA also violated 415 ILCS 5/39(c) in issuing the Grand Prairie Permits.

21. 5/39(c) provides that:

. . . no permit for the development or construction of a new pollution control facility may be granted by the [IEPA] unless the applicant submits proof to the [IEPA] that the location of the facility has been approved by the County Board of the county if in an unincorporated area, of the governing body of the municipality when in an incorporated area, in which the facility is to be located in accordance with Section 39.2 of this Act.

22. Section 39.2 requires that the county board or governing body hold at least one public hearing on the siting application of the applicant. 415 ILCS 5/39.2(d).

23. No public hearing was held by the County of Kane concerning the siting of Grand Prairie's proposed pollution control facility. As a result, Grand Prairie could not and did not provide the proof necessary to allow the IEPA to issue the Grand Prairie Permits. Absent this proof, the IEPA had no authority to issue the Grand Prairie Permits.

24. Finally, the IEPA's own rules prohibit issuance of permits to Grand Prairie under the present circumstances. Part 351 of the IPEA's Rules set forth various requirements for conflict resolution in revising water quality management plans. Section 351.502 provides:

For purposes of issuing permits, other than NPDES permits, the Agency may recognize exceptions to boundaries of facility planning areas without revising the approved WQM Plan in the following circumstances.

a) When the General Assembly, by legislation, authorizes the extension of sewer service to an area outside the facility planning area established by the Agency pursuant to federal regulations; or

b) When all of the following conditions are present:

1) The exception will not significantly impact wastewater planning in any facility planning area;

2) A revision would otherwise be necessary because a proposed sewer would cross a facility planning boundary; and

3) The designated facility planning agency, within whose facility planning area the area to be serviced by the sewer lies, has authorized such sewer extension by permit, agreement or other written documents.

25. The issuance of the Grand Prairie Permits to Grand Prairie does not come within the exceptions set forth above.

26. The Grand Prairie Permits do not involve an extension of sewer service as contemplated by part (a).

27. The Grand Prairie Permits also do not meet any of the conditions contemplated by part (b). The Grand Prairie Permits have a significant impact on the wastewater planning of the Mill Creek FPA. Further, no crossing of a facility planning boundary is involved. Last, Mill Creek has not authorized the sewer extension and has expressly objected to an extension under these circumstances.

28. Accordingly, the request does not come within the exceptions to this rule and Grand Prairie is not entitled to receive the permits for which it has applied.

V. REQUESTED RELIEF

WHEREFORE, for all the foregoing reasons, Mill Creek requests that the Illinois Pollution Control Board:

- A. Set aside Permit Nos. 2010-AA-2825 and 2010-IA-3153 issued to Grand Prairie Sanitary District on February 19, 2010;
- B. Order the IEPA to deny Grand Prairie Sanitary District's Application for permits as inconsistent with 33 U.S.C. § 1288 and Illinois law; and
- C. Any other and further relief the Board may deem proper.

DATE: March 25, 2010

Respectfully Submitted,

MILL CREEK WATER RECLAMATION
DISTRICT

By 

One of its Attorneys

Nathan W. Lamb
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Chicago, Illinois 60606
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Fax: (312) 244-6800

CERTIFICATE OF SERVICE

I, Nathan W. Lamb, an attorney, certify that March 25, 2010, I filed the above PETITION FOR REVIEW OF IEPA PERMIT DECISION. An original and nine copies were filed on recycled paper, with the Illinois Pollution Control Board, James R. Thompson Center, 100 West Randolph, Suite 11-500, Chicago, IL 60601. Copies were served via U.S. Mail to the following:

Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

Grand Prairie Sanitary District
P.O. Box 36
LaFox, Illinois 60147

(with copy to)

Victor P. Filippini Jr.
Holland & Knight, LLP
131 S. Dearborn Street 30th Floor
Chicago, Illinois 60603-5517
Phone: (312) 263-3600
Fax: (312) 578-6666

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ORIGINAL

By:



Nathan W. Lamb

Nathan W. Lamb
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(312) 443-6036 (fax)

EXHIBIT A

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
WATER POLLUTION CONTROL PERMIT

LOG NUMBERS: 2961-07 (1664-06) (1061-06) (5524-05) (3724-05)
(3541-05)

PERMIT NO.: 2003-GO-5061-5

FINAL PLANS, SPECIFICATIONS, APPLICATION
AND SUPPORTING DOCUMENTS
PREPARED BY: Sheaffer & Roland, Inc.

DATE ISSUED: March 16, 2007

SUBJECT: MILL CREEK WRD -Settlements of LaFox
(Mill Creek Water Reclamation District Sewage Treatment Plant) -- Sanitary Sewer Permit

PERMITTEE TO OWN AND OPERATE

Mill Creek Water Reclamation District
P.O. Box 229
Geneva, Illinois 60134

Supplemental Permit is hereby granted to the above designated permittee(s) to construct and/or operate water pollution control facilities, which were previously approved under Permit 2003-GO-5061 dated November 6, 2003. These facilities have been revised as follows:

Conversion of existing reclaimed water reservoir to a new aerated treatment cell, a new reclaimed water reservoir, additional filtration facilities, additional spray irrigation facilities, and appurtenances to serve the annexed Settlements of LaFox development. The design P.E. is for 11,500 PE with a design average flow to the lagoon system of 1,150,000 gpd. This permit expires on October 31, 2008.

The Mill Creek Water Reclamation District will provide treated effluent for the irrigation of 12.2 acres of the Settlements of LaFox area land using valved irrigation laterals with impact sprinkler heads. The Mill Creek Water Reclamation District application area will increase from 300.8 acres to 313 acres.

All Standard and Special Conditions and provisions of the original permit are also applicable to this permit unless specifically deleted or revised in this permit.

THE STANDARD CONDITIONS OF ISSUANCE INDICATED ON THE REVERSE SIDE MUST BE COMPLIED WITH IN FULL. READ ALL CONDITIONS CAREFULLY.

SAK:\ADOCS\PERMITS\STATECON\YILMA\2961GO07.WPD

DIVISION OF WATER POLLUTION CONTROL

cc: EPA - Des Plaines FOS
Sheaffer & Roland, Inc.
Records - Municipal
Binds


Alan Keller, P.E.
Manager, Permit Section

**READ ALL CONDITIONS CAREFULLY:
STANDARD CONDITIONS**

The Illinois Environmental Protection Act (Illinois Revised Statutes Chapter 111-12, Section 1039) grants the Environmental Protection Agency authority to impose conditions on permits which it issues.

1. Unless the construction for which this permit is issued has been completed, this permit will expire (1) two years after the date of issuance for permits to construct sewers or wastewater sources or (2) three years after the date of issuance for permits to construct treatment works or pretreatment works.
2. The construction or development of facilities covered by this permit shall be done in compliance with applicable provisions of Federal laws and regulations, the Illinois Environmental Protection Act, and Rules and Regulations adopted by the Illinois Pollution Control Board.
3. There shall be no deviations from the approved plans and specifications unless a written request for modification of the project, along with plans and specifications as required, shall have been submitted to the Agency and a supplemental written permit issued.
4. The permittee shall allow any agent duly authorized by the Agency upon the presentations of credentials:
 - a. to enter at reasonable times, the permittee's premises where actual or potential effluent, emission or noise sources are located or where any activity is to be conducted pursuant to this permit;
 - b. to have access to and copy at reasonable times any records required to be kept under the terms and conditions of this permit;
 - c. to inspect at reasonable times, including during any hours of operation of equipment constructed or operated under this permit, such equipment or monitoring methodology or equipment required to be kept, used, operated, calibrated and maintained under this permit;
 - d. to obtain and remove at reasonable times samples of any discharge or emission of pollutants;
 - e. to enter at reasonable times and utilize any photographic, recording, testing, monitoring or other equipment for the purpose of preserving, testing, monitoring, or recording any activity, discharge, or emission authorized by this permit.
5. The issuance of this permit:
 - a. shall not be considered as in any manner affecting the title of the premises upon which the permitted facilities are to be located;
 - b. does not release the permittee from any liability for damage to person or property caused by or resulting from the construction, maintenance, or operation of the proposed facilities;
 - c. does not release the permittee from compliance with other applicable statutes and regulations of the United States, of the State of Illinois, or with applicable local laws, ordinances and regulations;
 - d. does not take into consideration or attest to the structural stability of any units or parts of the project;
 - e. in no manner implies or suggests that the Agency (or its officers, agents or employees) assumes any liability, directly or indirectly, for any loss due to damage, installation, maintenance, or operation of the proposed equipment or facility.
6. Unless a joint construction/operation permit has been issued, a permit for operating shall be obtained from the agency before the facility or equipment covered by this permit is placed into operation.
7. These standard conditions shall prevail unless modified by special conditions.
8. The Agency may file a complaint with the Board for suspension or revocation of a permit:
 - a. upon discovery that the permit application contained misrepresentations, misinformation or false statement or that all relevant facts were not disclosed; or
 - b. upon finding that any standard or special conditions have been violated; or
 - c. upon any violation of the Environmental Protection Act or any Rules or Regulation effective thereunder as a result of the construction or development authorized by this permit.

EXHIBIT B

CORRECTED PERMIT
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
WATER POLLUTION CONTROL PERMIT

LOG NUMBERS: 1239-08

PERMIT NO.: 2008-GO-1239

FINAL PLANS, SPECIFICATIONS, APPLICATION
AND SUPPORTING DOCUMENTS
PREPARED BY: Sheaffer & Roland, Inc.

DATE ISSUED: September 22, 2008
CORRECTION DATE: November 6, 2008

SUBJECT: MILL CREEK WATER RECLAMATION DISTRICT - STP & Spray Irrigation

PERMITTEE TO OWN AND OPERATE

Mill Creek Water Reclamation District
Post Office Box 229
Geneva, Illinois 60134

Permit is hereby granted to the above designated permittee to own and operate water pollution control facilities described as follows:

A. Sewage Treatment Facility

A wastewater treatment facility consisting of a 2 cell aerated lagoon system, 2 storage lagoons, continuous backwash upflow sand filter, and chlorination followed by an irrigation system. The first cell contains 2,210,000 ft³, the second cell has 904,200 ft³, and the storage lagoon system has a facility site lagoon of 4,921,300 ft³ and a golf course storage lagoon of 5,512,032 ft³.

Future conversion of the reclaimed water reservoir to a new aerated treatment cell, additional reclaimed water reservoir and filtration facilities to serve the annexed Settlements of LaFox development. The design P.E. is for 11,500 with a design average flow to the lagoon system of 1,150,000 gpd.

B. Irrigation System

A stationary irrigation system consisting of fixed sprinklers with pop-up heads, various irrigation facilities and appurtenances for land application of wastewater effluent on a total of 468.8 acres on two golf courses, parks, and other open space areas.

This Permit renews and replaces Permit Number 2003-GO-5061 which was previously issued for the herein permitted facilities.

This Permit is issued subject to the following Special Condition(s). If such Special Condition(s) require(s) additional or revised facilities, satisfactory engineering plan documents must be submitted to this Agency for review and approval for issuance of a Supplemental Permit.

SPECIAL CONDITION 1. The operational portion of this permit expires on August 31, 2013 and is subject to renewal at that time.

THE STANDARD CONDITIONS OF ISSUANCE INDICATED ON THE REVERSE SIDE MUST BE COMPLIED WITH IN FULL. READ ALL CONDITIONS CAREFULLY.

TGM:JP:01061401.daa

DIVISION OF WATER POLLUTION CONTROL

cc: EPA - Des Plaines FOS
Sheaffer & Roland, Inc.
Records - Municipal
Binds


Alan Keller, P.E.
Manager, Permit Section

**READ ALL CONDITIONS CAREFULLY:
STANDARD CONDITIONS**

The Illinois Environmental Protection Act (Illinois Revised Statutes Chapter 111-12, Section 1039) grants the Environmental Protection Agency authority to impose conditions on permits which it issues.

1. Unless the construction for which this permit is issued has been completed, this permit will expire (1) two years after the date of issuance for permits to construct sewers or wastewater sources or (2) three years after the date of issuance for permits to construct treatment works or pretreatment works.
2. The construction or development of facilities covered by this permit shall be done in compliance with applicable provisions of Federal laws and regulations, the Illinois Environmental Protection Act, and Rules and Regulations adopted by the Illinois Pollution Control Board.
3. There shall be no deviations from the approved plans and specifications unless a written request for modification of the project, along with plans and specifications as required, shall have been submitted to the Agency and a supplemental written permit issued.
4. The permittee shall allow any agent duly authorized by the Agency upon the presentations of credentials:
 - a. to enter at reasonable times, the permittee's premises where actual or potential effluent, emission or noise sources are located or where any activity is to be conducted pursuant to this permit;
 - b. to have access to and copy at reasonable times any records required to be kept under the terms and conditions of this permit;
 - c. to inspect at reasonable times, including during any hours of operation of equipment constructed or operated under this permit, such equipment or monitoring methodology or equipment required to be kept, used, operated, calibrated and maintained under this permit;
 - d. to obtain and remove at reasonable times samples of any discharge or emission of pollutants;
 - e. to enter at reasonable times and utilize any photographic, recording, testing, monitoring or other equipment for the purpose of preserving, testing, monitoring, or recording any activity, discharge, or emission authorized by this permit.
5. The issuance of this permit:
 - a. shall not be considered as in any manner affecting the title of the premises upon which the permitted facilities are to be located;
 - b. does not release the permittee from any liability for damage to person or property caused by or resulting from the construction, maintenance, or operation of the proposed facilities;
 - c. does not release the permittee from compliance with other applicable statutes and regulations of the United States, of the State of Illinois, or with applicable local laws, ordinances and regulations;
 - d. does not take into consideration or attest to the structural stability of any units or parts of the project;
 - e. in no manner implies or suggests that the Agency (or its officers, agents or employees) assumes any liability, directly or indirectly, for any loss due to damage, installation, maintenance, or operation of the proposed equipment or facility.
6. Unless a joint construction/operation permit has been issued, a permit for operating shall be obtained from the agency before the facility or equipment covered by this permit is placed into operation.
7. These standard conditions shall prevail unless modified by special conditions.
8. The Agency may file a complaint with the Board for suspension or revocation of a permit:
 - a. upon discovery that the permit application contained misrepresentations, misinformation or false statement or that all relevant facts were not disclosed; or
 - b. upon finding that any standard or special conditions have been violated; or
 - c. upon any violation of the Environmental Protection Act or any Rules or Regulation effective thereunder as a result of the construction or development authorized by this permit.

CORRECTED PERMIT
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
WATER POLLUTION CONTROL PERMIT

LOG NUMBERS: 1239-08

PERMIT NO.: 2008-GO-1239

FINAL PLANS, SPECIFICATIONS, APPLICATION
AND SUPPORTING DOCUMENTS

DATE ISSUED: September 22, 2008

CORRECTION DATE: November 6, 2008

PREPARED BY: Sheaffer & Roland, Inc.

SUBJECT: MILL CREEK WATER RECLAMATION DISTRICT - STP & Spray Irrigation

SPECIAL CONDITION 2: The operation of this slow rate land application system shall be under a certified operator as required under Title 35, Subtitle C, Chapter 1, Part 312-Treatment Plant Operator Certification. This facility, which includes the wastewater treatment plant, irrigation pumps, and spray irrigation area(s) shall be under the exclusive control of the certified operator. Control of the irrigation system by anyone other than the certified operator shall be violation of this permit.

SPECIAL CONDITION 3. This permit is issued with the expressed understanding that there shall be no surface discharge from these facilities. Should any such discharge be anticipated, the permittee shall apply for an NPDES permit at least 180 days prior to such discharge.

SPECIAL CONDITION 4. The spray irrigation system cannot be operated when the water table in the irrigation area is within 4 feet of the soil surface. A 4 foot layer of soil or more must be maintained in an aerobic condition prior to spray irrigation. The groundwater monitoring wells must be monitored at the beginning of each irrigation week and the groundwater levels recorded.

SPECIAL CONDITION 5. An irrigation area with drainage tile cannot be operated when the water table is above the invert of the irrigation tile unless the crown of the irrigation tile is at least 4 feet from the soil surface.

SPECIAL CONDITION 6. Storage of effluent must be provided when groundwater or saturated soil conditions do not permit irrigation.

SPECIAL CONDITION 7. The spray irrigation system shall be operated at an average weekly application rate of 1.5 inches or less with the following maximum rates depending upon climatic conditions:

Maximum hour - 0.25 inches

Maximum day - 1.0 inches

Maximum week - 3.0 inches

Any precipitation received during the 24 hour period prior to irrigation shall be subtracted from the 1.0 inch maximum day rate to determine the maximum day application rate that can be applied.

SPECIAL CONDITION 8.

A. Treated wastewater shall be applied to sites within the following guidelines:

1. It shall not be applied to sites during precipitation.
2. It shall not be applied to sites which are saturated or with ponded water.
3. It shall not be applied to ice or snow covered sites or when the ground is frozen.
4. It shall not be applied when winds exceed 15 mph.

B. It is recommended that treated wastewater not be applied to the site when precipitation is imminent.

**READ ALL CONDITIONS CAREFULLY:
STANDARD CONDITIONS**

The Illinois Environmental Protection Act (Illinois Revised Statutes Chapter 111-12. Section 1039) grants the Environmental Protection Agency authority to impose conditions on permits which it issues.

1. Unless the construction for which this permit is issued has been completed, this permit will expire. (1) two years after the date of issuance for permits to construct sewers or wastewater sources or (2) three years after the date of issuance for permits to construct treatment works or pretreatment works.
2. The construction or development of facilities covered by this permit shall be done in compliance with applicable provisions of Federal laws and regulations, the Illinois Environmental Protection Act, and Rules and Regulations adopted by the Illinois Pollution Control Board.
3. There shall be no deviations from the approved plans and specifications unless a written request for modification of the project, along with plans and specifications as required, shall have been submitted to the Agency and a supplemental written permit issued.
4. The permittee shall allow any agent duly authorized by the Agency upon the presentations of credentials:
 - a. to enter at reasonable times, the permittee's premises where actual or potential effluent, emission or noise sources are located or where any activity is to be conducted pursuant to this permit;
 - b. to have access to and copy at reasonable times any records required to be kept under the terms and conditions of this permit;
 - c. to inspect at reasonable times, including during any hours of operation of equipment constructed or operated under this permit, such equipment or monitoring methodology or equipment required to be kept, used, operated, calibrated and maintained under this permit;
 - d. to obtain and remove at reasonable times samples of any discharge or emission of pollutants;
 - e. to enter at reasonable times and utilize any photographic, recording, testing, monitoring or other equipment for the purpose of preserving, testing, monitoring, or recording any activity, discharge, or emission authorized by this permit.
5. The issuance of this permit:
 - a. shall not be considered as in any manner affecting the title of the premises upon which the permitted facilities are to be located;
 - b. does not release the permittee from any liability for damage to person or property caused by or resulting from the construction, maintenance, or operation of the proposed facilities;
 - c. does not release the permittee from compliance with other applicable statutes and regulations of the United States, of the State of Illinois, or with applicable local laws, ordinances and regulations;
 - d. does not take into consideration or attest to the structural stability of any units or parts of the project;
 - e. in no manner implies or suggests that the Agency (or its officers, agents or employees) assumes any liability, directly or indirectly, for any loss due to damage, installation, maintenance, or operation of the proposed equipment or facility.
6. Unless a joint construction/operation permit has been issued, a permit for operating shall be obtained from the agency before the facility or equipment covered by this permit is placed into operation.
7. These standard conditions shall prevail unless modified by special conditions.
8. The Agency may file a complaint with the Board for suspension or revocation of a permit:
 - a. upon discovery that the permit application contained misrepresentations, misinformation or false statement or that all relevant facts were not disclosed; or
 - b. upon finding that any standard or special conditions have been violated; or
 - c. upon any violation of the Environmental Protection Act or any Rules or Regulation effective thereunder as a result of the construction or development authorized by this permit.

CORRECTED PERMIT
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
WATER POLLUTION CONTROL PERMIT

LOG NUMBERS: 1239-08

PERMIT NO.: 2008-GO-1239

FINAL PLANS, SPECIFICATIONS, APPLICATION
AND SUPPORTING DOCUMENTS

DATE ISSUED: September 22, 2008
CORRECTION DATE: November 6, 2008

PREPARED BY: Sheaffer & Roland, Inc.

SUBJECT: MILL CREEK WATER RECLAMATION DISTRICT - STP & Spray Irrigation

SPECIAL CONDITION 9. The following monitoring is required:

<u>Parameter</u>	<u>Data</u>	<u>Sample Frequency</u>
Influent Flow	Monthly Avg., Daily Max (mgd)	Continuous
Lagoons	Water Level	Daily
Groundwater		
1. Nitrate	conc. (mg/l)	Quarterly (on a yearly basis)
2. Nitrite	conc. (mg/l)	Quarterly (on a yearly basis)
3. NH ₃ -N	conc. (mg/l)	Quarterly (on a yearly basis)
4. Chloride	conc. (mg/l)	Quarterly (on a yearly basis)
5. Sulfate	conc. (mg/l)	Quarterly (on a yearly basis)
6. pH	units	Quarterly (on a yearly basis)
7. Total Dissolved Solids	conc. (mg/l)	Quarterly (on a yearly basis)
Wastewater Effluent Applied to Land	inches/day	Daily
Chlorine Residual of Wastewater Effluent Applied to Land	conc. (mg/l)	Daily

Monthly reports shall be submitted to:

Manager, Region 2
Field Operations Section, DWPC
Illinois Environmental Protection Agency
9511 West Harrison Street
Des Plaines, Illinois 60016

These reports should be received no later than the 15th day of the following month.

A copy shall also be submitted to:

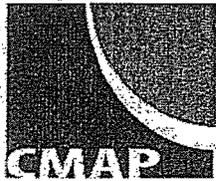
Illinois Environmental Protection Agency
Division of Water Pollution Control
Permit Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

**READ ALL CONDITIONS CAREFULLY:
STANDARD CONDITIONS**

The Illinois Environmental Protection Act (Illinois Revised Statutes Chapter 111-12, Section 1039) grants the Environmental Protection Agency authority to impose conditions on permits which it issues.

1. Unless the construction for which this permit is issued has been completed, this permit will expire (1) two years after the date of issuance for permits to construct sewers or wastewater sources or (2) three years after the date of issuance for permits to construct treatment works or pretreatment works.
2. The construction or development of facilities covered by this permit shall be done in compliance with applicable provisions of Federal laws and regulations, the Illinois Environmental Protection Act, and Rules and Regulations adopted by the Illinois Pollution Control Board.
3. There shall be no deviations from the approved plans and specifications unless a written request for modification of the project, along with plans and specifications as required, shall have been submitted to the Agency and a supplemental written permit issued.
4. The permittee shall allow any agent duly authorized by the Agency upon the presentations of credentials:
 - a. to enter at reasonable times, the permittee's premises where actual or potential effluent, emission or noise sources are located or where any activity is to be conducted pursuant to this permit;
 - b. to have access to and copy at reasonable times any records required to be kept under the terms and conditions of this permit;
 - c. to inspect at reasonable times, including during any hours of operation of equipment constructed or operated under this permit, such equipment or monitoring methodology or equipment required to be kept, used, operated, calibrated and maintained under this permit;
 - d. to obtain and remove at reasonable times samples of any discharge or emission of pollutants;
 - e. to enter at reasonable times and utilize any photographic, recording, testing, monitoring or other equipment for the purpose of preserving, testing, monitoring, or recording any activity, discharge, or emission authorized by this permit.
5. The issuance of this permit:
 - a. shall not be considered as in any manner affecting the title of the premises upon which the permitted facilities are to be located;
 - b. does not release the permittee from any liability for damage to person or property caused by or resulting from the construction, maintenance, or operation of the proposed facilities;
 - c. does not release the permittee from compliance with other applicable statutes and regulations of the United States, of the State of Illinois, or with applicable local laws, ordinances and regulations;
 - d. does not take into consideration or attest to the structural stability of any units or parts of the project;
 - e. in no manner implies or suggests that the Agency (or its officers, agents or employees) assumes any liability, directly or indirectly, for any loss due to damage, installation, maintenance, or operation of the proposed equipment or facility.
6. Unless a joint construction/operation permit has been issued, a permit for operating shall be obtained from the agency before the facility or equipment covered by this permit is placed into operation.
7. These standard conditions shall prevail unless modified by special conditions.
8. The Agency may file a complaint with the Board for suspension or revocation of a permit:
 - a. upon discovery that the permit application contained misrepresentations, misinformation or false statement or that all relevant facts were not disclosed; or
 - b. upon finding that any standard or special conditions have been violated; or
 - c. upon any violation of the Environmental Protection Act or any Rules or Regulation effective thereunder as a result of the construction or development authorized by this permit.

EXHIBIT C



Chicago Metropolitan Agency for Planning

233 South Wacker Drive
Suite 800, Sears Tower
Chicago, IL 60606

312-454-0400 (voice)
312-454-0411 (fax)
www.cmap.illinois.gov

Wastewater Meeting Minutes

August 12, 2009

Offices of the Chicago Metropolitan Agency for Planning (CMAP)
DuPage County Conference Room
Suite 800, 233 S. Wacker Drive, Sears Tower, Chicago, Illinois

Members Present: Wallace Van Buren; Debra Shore; Frank Beal

Staff Present: Jesse Elam; Randy Blankenhorn; Megan Elberts

Others Present: Pat Armstrong, Esquire Reporting; Joe Schuessler, MWRDGC; Marlo Del Percio, Grand Prairie Sanitary District; David Patzelt, Sho-Deen, Inc.; Bob Minetz, DiMonte; Don Manikas, Locke Lord; Jason Fowler, Sheaffer and Roland; Wayne Cowlshaw, Sheaffer and Roland; Victor Filippini, Holland and Knight; Mary Krasner, Wyndham Deerpoint Homes; Tim Kellogg, Grand Prairie Sanitary District; Peter Brennan, Foxford; Mark Ruby, Mill Creek Water Reclamation District; Jeremy Lin, Lintech

1.0 Call to Order

The meeting was called to order at 10:30 p.m.

2.0 Agenda Changes

There were none.

3.0 Approval of Minutes – April 8, 2009

A motion to approve minutes of the April 8, 2009, meeting, as presented, was made by Mr. Beal and seconded by Mr. Van Buren. The motion carried.

4.0 Water Quality Plan Amendment Requests

ACTION REQUESTED: Approval, Denial or Deferral

4.1 Grand Prairie Sanitary District (09-WQ-005): has submitted a request to install a new spray irrigation wastewater treatment facility to serve the Settlements of LaFox development in Kane county, IL. The treated effluent will be 100% land applied throughout the development.

Commissioner Shore asked Mr. Elam to summarize the staff review of the amendment request. He did so, first explaining that CMAP staff reviews are based on nine evaluation criteria, published on the CMAP website among other places, that are intended to assess conformance with the Areawide Water Quality Management Plan. Staff found the application inconsistent on criteria 6 and 7, and therefore recommended non-support for Grand Prairie's amendment request. Furthermore, staff found the applicant's request to construct a new treatment facility to run counter to the areawide plan's emphasis on regionalization. Staff also determined that since the areawide plan discourages the duplication of infrastructure improvements to serve the same area, and Mill Creek Water Reclamation District had already made such improvements, Grand Prairie's application to serve the area would not be in keeping with the plan. A motion was made to accept the staff recommendation. Commissioner Shore requested comments from committee members. With no comments from the committee members, she requested comments from the audience.

Ms. Del Percio, assistant clerk for Grand Prairie, was called and provided the committee members with additional written comments dated August 12, 2009. She argued that procedural anomalies during the processing of the amendment request were unfair to GPSD, in particular that the timeline for its submission had been accelerated by CMAP and that GPSD had not been informed of the staff review's conclusions early enough to respond to them without practical difficulty. When the Mill Creek FPA was expanded in 2006, she said, the GPSD had not been notified of the amendment request. She also argued that the staff review contained factual inaccuracies, that it opposed the amendment request on irrelevant grounds, that it made use of information not contained in the public record, and that it misunderstood the regionalization policy in the areawide plan by assuming it applied to non-discharging systems, among other points. Ms. Del Percio argued finally that state law provides GPSD exclusive jurisdiction to provide wastewater service to the area within its boundaries.

Mr. Fillippini, attorney for the landowners, was called and provided the committee members with additional written comments dated August 12, 2009. He called attention to the Illinois Appellate Court's recent decision in *Northern Moraine Water Reclamation District vs. Illinois Commerce Commission* to the effect that having DMA status does not grant a monopoly to provide wastewater service. Mr. Fillippini argued that the Wastewater Committee had an obligation to follow the case law in its recommendation. Furthermore, he suggested that having Mill Creek Water Reclamation District (MCWRD) serve the property in question would permit Sho-Deen, Inc. excessive profits, and that it would not be the Wastewater Committee's proper role to protect those profits. He took issue with the staff report's characterization of the landowners as "shopping around" for the best deal on wastewater service, and contested the staff report's conclusion that the courts would need to decide whether or not the recapture provisions in the purchase agreement were lawful

before the Wastewater Committee could consider them valid. Mr. Fillippini also argued that regionalization policy does not apply to land application systems.

Mr. Beal asked Mr. Fillippini to clarify several points, such as the relationship between the three GPSD trustees and the landowners (there is one blood relation) and the status of the litigation over the purchase agreement (it is in court currently).

Mr. Mark Ruby, a MCWRD trustee, was called. He stated that MCWRD has always been willing to serve the subject property, and that area in the GPSD had been made part of the Mill Creek FPA in 2006 at the GPSD trustees' request. The landowners had negotiated with MCWRD to provide wastewater service but had not finalized an agreement. Mr. Beal asked why an agreement was not reached. Mr. Ruby said that many of the landowners' points had changed, and he thought that the downturn in the economy may have made them unwilling to pay the fee for MCWRD's excess capacity. He also urged the committee to consider a deferral if it voted against the staff recommendation of non-support.

Mr. Lin, engineer for GPSD, was called. He said that he had consulted with the Illinois EPA near the beginning of the design process for the treatment plant to determine whether one wastewater operator could construct a non-discharging plant within another operator's FPA, which he said Illinois EPA agreed could be done. He noted that the plant would be a membrane biological reactor design and suggested that it would produce high-quality effluent. Considering his efforts to consult with CMAP and IEPA early on, he said the GPSD's efforts to design and gain approval for the plant had been a good faith effort.

Mr. Fowler, engineer for MCWRD, was called. He referred to a poster-sized map of part of the subject area to describe the improvements that had been made to serve the subject property. A developer had purchased land from a park district to make two parts of MCWRD contiguous. He indicated that MCWRD had required Sho-Deen to make the improvements. Mr. Beal asked whether this had been done prior to a signed agreement, to which Mr. Fowler answered yes.

Mr. Brennan, a landowner, was called. He said that Mr. Fowler had indicated that MCWRD had not incurred the costs for the infrastructure improvements, as Sho-Deen had put up the funding, so that the staff report was incorrect. He also asserted that the improvements had been made to serve other developments besides only Settlements of La Fox.

Mr. Manikas was called. He said that MCWRD made its expansion to include the subject area in 2006 based on a request by the developer and landowners, that MCWRD had always wanted to annex the area and serve the property with sewer service, and that MCWRD and the landowners had had basic agreement on this point. Once the economy changed, he said, the landowners changed their mind about receiving sewer service from.

MCWRD. He also said that although MCWRD did not pay the cost of making the \$582,000 in improvements mentioned in the staff review, it did incur losses related to those improvements. Mr. Manikas noted that GPSD had been in existence since 2002 and chose to negotiate with MCWRD to provide wastewater service, but then changed its mind.

Mr. Fillippini was called again. He stated that the disagreement was basically about the money required of the landowners to use the excess capacity at MCWRD. Ms. Del Percio was called again, and she reiterated that she believed the facts and analysis in the staff recommendation were inadequate.

Commissioner Shore closed the floor and said that the rushed nature of the amendment review was due to GPSD's desire to have its request heard at the August Wastewater Committee meeting. She also asserted that the Wastewater Committee is not a court, and would not be able to adjudicate certain issues. Mr. Beal said audience comments had raised issues that were difficult to digest and that he found it hard to support the staff recommendation. He noted that the legal issues raised by GPSD and the landowners should carry some weight with the committee. Mr. Van Buren addressed the question of having two DMAs within one FPA, noting that it is the committee's custom not to support that arrangement. Commissioner Shore called the motion to a vote. Mr. Van Buren and Commissioner Shore voted to accept the staff recommendation of non-support for the amendment request; Mr. Beal voted against it.

MOTION: A motion to defer the amendment request was then made by Mr. Frank Beal and seconded by Commissioner Shore. The motion carried.

An audience member asked when the request would be reconsidered. It was answered that the request would be on the September Wastewater Committee agenda.

4.2 Thorn Creek Basin Sanitary District (09-WQ-041): has submitted a request to transfer 30 acres of non-FPA land to the Thorn Creek Basin Sanitary District FPA to provide wastewater service for two parcels currently located in unincorporated Will County.

Commissioner Shore asked Mr. Elam to summarize the staff review. He noted that staff found the request consistent with the criteria and that the Metropolitan Water Reclamation District had indicated in a letter to CMAP that it had no objection to the amendment request.

MOTION: A motion to support staff's recommendation of support for the amendment request was made by Mr. Van Buren and seconded by Mr. Beal. The motion carried.

5.0 Upcoming Amendment Requests Scheduled for September 9, 2009

There are none known except for reconsideration of the Grand Prairie Sanitary District request.

6.0 Other Business

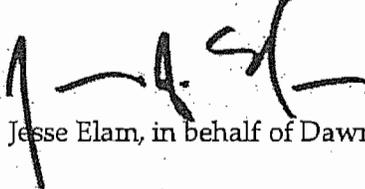
None.

7.0 Public Comment.

None.

8.0 Adjournment.

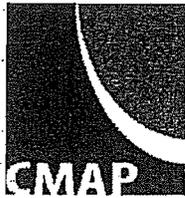
Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jesse Elam', is written over the typed name.

Jesse Elam, in behalf of Dawn Thompson

08/18/09

EXHIBIT D



Chicago Metropolitan Agency for Planning

Agenda Item No. 3.0

233 South Wacker Drive, Suite 800
Chicago, IL 60606

312-454-0400 (voice)
312-454-0411 (fax)
www.cmap.illinois.gov

DRAFT

Wastewater Committee Meeting Minutes

September 9, 2009

Offices of the Chicago Metropolitan Agency for Planning (CMAP)
Cook County Conference Room
Suite 800, 233 S. Wacker Drive, Chicago, Illinois

- Board Members:** Debra Shore, Frank Beal, Roger Claar, Rick Reinbold
- Staff Present:** Randy Blankenhorn, Dawn Thompson, Jesse Elam, Megan Elberts
- Others Present:** Jason Fowler, Sheaffer and Roland, Inc.; Craig Blanchette, Aqua Illinois; Michael Norgara, Aqua Illinois; Victor Filippini Jr, Holland and Knight; Jeremy Lin, Lintech Engineering; Marlo M. Del Percio, Grand Prairie Sanitary District; Robert Minetz, Attorney for Shodeen; Peter Brennan, Foxford; Michael Rogina, Aqua Illinois; John Sheaffer, Sheaffer and Roland, Inc; Wayne Cowlshaw, Sheaffer and Roland, Inc; Mark Ruby, Millcreek Water Reclamation District, Inc

1.0 Call to Order and Introductions

The Chair, Debra Shore called the meeting to order at approximately 10:45 a.m., and introduced and welcomed the newest committee member, Rick Reinbold-Village President, Richton Park.

2.0 Agenda Changes and Announcements

The agenda was modified as follows: Agenda Item 6.0: *Agricultural Preservation's Relationship to Land Use Planning and the FPA Process*, was moved to follow Agenda Item 2.0.

CMAP Executive Director Randy Blankenhorn reviewed the voting procedure for the Wastewater Committee and reported that a majority of appointed members is required to affirm any action of the committee.

3.0 Agricultural Preservation's Relationship to Land Use Planning and the FPA Process

Mr. John Lohse presented material on the Illinois Department of Agriculture review of FPAs. The review is necessary to ensure consistency with the Illinois Farmland Preservation Act.

4.0 Approval of Minutes – August 12, 2009

A motion to approve minutes of the August 12, 2009, meeting, as presented was made by Mayor Claar and seconded by Mr. Beal. All in favor, the motion carried.

5.0 Water Quality Plan Amendment Request

ACTION REQUESTED: Approval, Denial or Deferral

Level II Requests

5.1 *Aqua Illinois (09-WQ-108)*: has submitted a request to expand its University Park Wastewater Treatment Facility from an average daily flow of 2.17 mgd to 2.43 mgd. The wastewater treatment plant is located in the Village of University Park, Green Garden Township, Will County.

Staff recommended support for the amendment request. Ms. Thompson noted that as part of the request, Aqua Illinois has proposed to provide service to the Village of Monee. Negotiations between the Village of Monee and Aqua Illinois are underway and staff received a letter dated September 8th, 2009 from the Village of Monee supporting the Aqua's request. Mr. Craig Blanchette, Vice President of Aqua Illinois, fielded questions regarding the status of negotiations and the wastewater effluent reuse analysis.

MOTION: A motion to support staff's recommendation of support for the amendment request was made by Mayor Claar and seconded by Mr. Frank Beal. All in favor, the motion carried.

5.2 *Mill Creek Water Reclamation District (09-WQ-112)*: has submitted a request to transfer 23 acres of non-FPA land into the Mill Creek Water Reclamation District FPA. The proposed area is located in Kane County, Blackberry Township, Section 1.

Staff recommended support for the amendment request. Ms. Thompson noted a few errors within the review. Jason Fowler, Sheaffer and Roland, fielded questions concerning the flow estimation and proposed land use within the amendment area.

MOTION: A motion to support staff's recommendation of support for the amendment request was made by Mayor Claar and seconded by Mr. Beal. All in favor, the motion carried.

5.3 *Grand Prairie Sanitary District (09-WQ-005)*: has submitted a request to install a new spray irrigation wastewater treatment facility to serve the Settlements of LaFox development in Kane County, IL. The treated effluent will be 100% land applied throughout the development.

Staff issued a recommendation of non-support for the amendment request based a number of issues. The first issue discussed was the fact that the proposed service area is within the

Mill Creek Water Reclamation District FPA. In 2006, when this area was transferred to the Mill Creek WRD FPA, no objection was voiced by the Grand Prairie Sanitary District. Another issue taken into account in staff's recommendation was regionalization. Although regionalization is not typically an issue for non-discharging systems, staff still considered this because scattered land application systems can affect groundwater quality.

John Sheaffer, Sheaffer and Roland fielded questions regarding the history the FPA and the relationship between the Mill Creek Water Reclamation District and the Grand Prairie Sanitary District. Victor Filippini Jr, Holland and Knight spoke to a few points within Staff's review.

MOTION: A motion to support staff's recommendation of non-support for the amendment request was made by Mayor Claar and seconded by President Reinbold. Commissioner Shore and Mr. Beal did not support the motion therefore the motion failed. A recommendation of either support or nonsupport could not be provided to the IEPA.

6.0 Upcoming Amendment Requests Scheduled for October 14, 2009

There are no upcoming amendment requests and the October Wastewater Committee Meeting was cancelled.

7.0 Other Business

There was no other business before the Wastewater Committee.

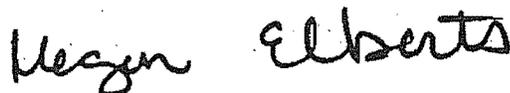
8.0 Public Comment

There were no comments from the public.

9.0 Adjournment

A motion to adjourn made by Mr. Beal was seconded by President Reinbold at approximately 11:50 a.m. All in favor, the motion carried.

Respectfully submitted,



Megan Elberts
Water Resources Engineer

12/1/2009

EXHIBIT E



Wastewater Committee

Date: August 12, 2009

CMAP Water Quality Review #: 09-WQ-005

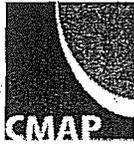
Applicant: Grand Prairie Sanitary District

Re: The Grand Prairie Sanitary District (GPSD) has submitted a request to install a new spray irrigation wastewater treatment facility to serve the Settlements of LaFox Development. The treated effluent will be land applied throughout the development. The land application system will be located in Kane County, IL.

COMMITTEE ACTION REQUESTED

Based on the policies and recommendations of the *Areawide Water Quality Management Plan for Northeastern Illinois*, the *Illinois Water Quality Management Plan*, local government and agency comments, comments received from various interested and affected parties, and staff's analysis, staff recommends a Committee recommendation of "*Non-Support*" for the proposed amendment request.

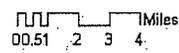
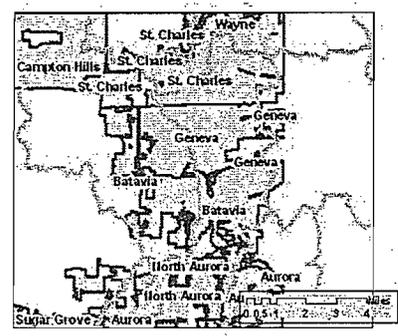
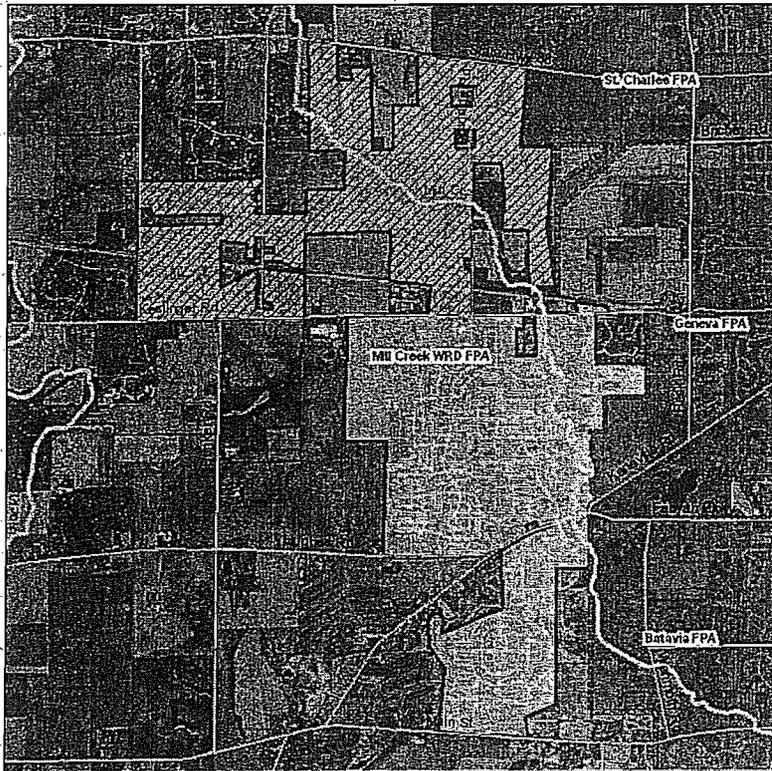
Important Note: CMAP is the designated areawide water quality planning agency and the advisory comprehensive regional planning agency for northeastern Illinois. Therefore, CMAP needs to act as a consensus builder by promoting sound planning principles and practices. Though not specifically required by the Illinois Environmental Protection Agency (IEPA), Criteria Nos. 6 – 9 specifically address CMAP's regional role and promote sound planning.



Map of Development to Be Served By Proposed Land Treatment System

Wastewater Committee April 8, 2009

Grand Prairie Sanitary District FPA Amendment Request (09-WQ-005)



Chicago Metropolitan Agency for Planning

Date of Map Creation 03/25/09



RELATIONSHIP TO RECOMMENDED CRITERIA FOR FACILITY PLAN AMENDMENTS

The Grand Prairie Sanitary District proposes to install and operate a Membrane Biological Reactor (MBR) wastewater treatment land application system. The system will treat wastewater generated from a service area within the Mill Creek FPA. The Illinois EPA has established that an entity may operate a land application wastewater treatment plant within another FPA as long as its sewer facilities do not cross any FPA boundaries.

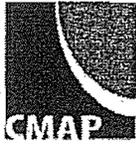
On October 18, 2006, the Northeastern Illinois Planning Commission (NIPC) approved Mill Creek Water Reclamation District's request to transfer 1,278.94 acres from a non-FPA area into the Mill Creek Water Reclamation District Facility Planning Area and an expansion of the its 0.65 mgd land treatment system to 1.15 mgd. The Grand Prairie Sanitary District is proposing to serve the same area as part of the amendment request.

The proposed subdivision is located within Sections 1, 2, and 3 of Blackberry Township and Sections 35 and 36 of Campton Township in Kane County.



Below is a summary and analysis of the proposed amendment application with regards to these criteria.

Review Criteria and Staff Analysis	Results
<p>1. <i>"The proposed facility amendment must be designed to meet the State of Illinois water quality standards for the receiving waters and the appropriate discharge standards or must receive a variance from the Illinois Pollution Control Board."</i></p>	<p>Consistent</p>
<p>The Grand Prairie Sanitary District (GPSD) proposes to operate a land application system, per its June 2, 2009 Revised Facility Plan, to treat wastewater from a proposed development (Settlements of LaFox). Treated effluent will be 100% land applied throughout the development on openspace and thus prevent any wastewater discharge directly to Mill Creek.</p> <p>The proposed development encompasses 1,252 acres of land and is a Transportation Oriented Development site which straddles an open space corridor along Mill Creek and consists of a variety of land uses including: multi-family residential; single family residential; condominiums; mixed use; commercial; office; public use; and, a future school site.</p> <p>The proposed development will generate 5,945 P.E. residential and commercial wastewater flows. The treatment plant will be designed to treat a capacity of 6,000 P.E. and constructed in two phases of 3,000 P.E. each. Construction includes an array of tasks including construction of aeration and anoxic tanks, blowers, irrigation pumps, and providing an effluent storage lagoon.</p> <p>GPSD will utilize a Membrane Bioreactor (MBR) process for treatment of wastewater before it is land applied. While the State of Illinois requires that land application systems only provide secondary treatment of wastewater, GPSD's system will provide a higher treatment level by passing the secondary treated effluent through a tertiary sand filtration system and then chlorination prior to being applied on the irrigation fields. Advantages of utilizing this system include: production of a high quality of effluent; greater removal of bacteria and viruses; minimal odor emissions; protection of groundwater quality within the area; replenishing drinking water sources for local communities, and a smaller footprint than a conventional system. The system combines the functions of biological treatment, secondary clarification, and tertiary filtration into one unit. The environmental benefits derived from such a system are highly valued and supported by agencies including the Conversation Foundation in a letter dated July 10, 2009.</p> <p>The proposed development is currently located within the Mill Creek Water Reclamation District FPA. Mill Creek's Reclamation and Reuse Plant is also a land application system, has been in operation for 15 years, and does not involve the discharge of treated effluent to surface waters.</p> <p>MCWRD, in a letter dated March 31, 2009, objected to GPSD's request to provide wastewater service to the proposed development. MCWRD noted that "the Settlements of LaFox developers initially approached the MCWRD about the possibility of annexing into the MCWRD in 2005." (Mill Creek Water Reclamation District letter dated March 30, 2009.) Based</p>	



on this request, on October 18, 2006, the MCWRD requested an expansion of both its FPA boundary and land treatment system to include the proposed development. This request was reviewed and approved by both the Northeastern Illinois Planning Commission (NIPC Water Quality Review # 06-WQ-168) and the Illinois EPA. Since that time, MCWRD has incurred \$582,000 in costs. They have "prepared plans, drawings and specifications relating to the necessary infrastructure and improvements, and obtained permits from the IEPA for construction and operation of improvements to its water supply system and its wastewater recycling facilities to serve the Settlements of LaFox Development." (Letter Mill Creek Water Reclamation District letter dated March 31, 2009). (See breakdown of MCWRD's costs in Review Criteria No. 5 associated with the construction of infrastructure in preparation for serving the proposed development.) Granting approval of the GPSD request would undermine efforts and waste funds already expended by the MCWRD to provide service to the proposed development.

Undermining infrastructure investments of designated management agencies does not fit into the context of the Facility Planning Area process. Facility Planning Areas are defined as areas considered for possible wastewater treatment service (the "service envelope") within a twenty year planning period as specified in 40 CFR 35.2030(b)(3). Once approved by the IEPA, an FPA is an area in which a DMA has the right to plan, design, construct, own, and operate sewer facilities (wastewater treatment plants, interceptors, collection systems, etc.) and to apply for federal and/or state funds and permits associated with the construction of these wastewater facilities.^a Granting GPSD's request would undermine this objective.

Staff also cannot ignore the precedent of regionalization that has been established by the Chicago Metropolitan Agency for Planning and its predecessors, the Northeastern Illinois Planning Commission (NIPC) and its former Water Resources Committee. The promotion of regionalization has been established and outlined in the *Water Quality Management Plan Amendment Process and Procedures* manual, Appendix V, which provides procedures for determining compliance with point source management policies. The manual states: "Another recommended alternative is to evaluate regional treatment options which typically provide a more reliable level of effluent quality than small wastewater plants." This approach involves constructing one wastewater treatment facility to serve multiple communities, where two or more plants may otherwise have been built. This approach discourages small conventional treatment plant discharges which often experience failure. Therefore, CMAP and its predecessor NIPC strongly encouraged regionalization of treatment facilities where possible. Granting approval of GPSD's request would undermine this precedent.

2. *"The population and employment for which the proposed amendment is designed must fall within the twenty year forecast most recently adopted by the Commission for the facility planning area or the Commission may agree to adjustments within the regional forecast total."*

Consistent

The GPSD projects 1,102 single family units, 81 townhome units, 92 age targeted units, and 442 mixed use/apartments. The development also includes 589,660 ft. of commercial/office

^a Illinois Environmental Protection Agency. 2003. *Final FPA Program Evaluation*. Prepared by Consensus Solutions, Ltd. See <http://www.epa.state.il.us/water/watershed/facility-planning/facility-planning.pdf>.



<p>space. A future Geneva School with 600 students, a community center and an Elburn Fire Protection Facility are also proposed by the Year 2029 within the development area. GPSD anticipates that 825 acres remaining in the development area will be used as open space.</p> <p>The proposed development will generate a total wastewater flow projection of 5,945 P.E. for both residential and commercial development upon buildout.</p>	
<p>3. <i>"The applicant must demonstrate that the unit of local government granting zoning to the project formally accept financial responsibility for the wastewater treatment system in the event of a system malfunction or failure. Such acceptance must be in the form of a resolution from the unit of government granting zoning."</i></p>	<p>Not Applicable</p>
<p>STAFF FINDING: The requested amendment does not involve the construction, operation or modification of a privately-owned treatment facility; therefore, Criteria # 3 is not applicable in this instance.</p>	
<p>4. <i>"The proposed amendment should not reduce the effectiveness of the water quality improvement strategy contained in the original plan, either for point or non-point source control."</i></p>	<p>Consistent</p>
<p><u>Point Source Impacts</u> (See analysis under Criterion #1)</p> <p>The applicant is proposing to utilize a land application system to serve proposed developments in the requested development area. This system does not result in point source discharges to any surface waters.</p> <p><u>Non-Point Source Impacts</u></p> <p>The amendment request is subject to Kane County's Stormwater Ordinance which has provisions for Stormwater Management, soil erosion and sediment, control, floodplain management, and stream and wetland protection ordinances. These ordinances are generally consistent with CMAP's model ordinances.</p> <p>A wetland assessment conducted for the proposed amendment identified six aquatic resources, of which two are identified in the Kane County Advanced Identification (ADID) as High Value Wetlands and two as Farmed Wetlands. Construction of the wastewater treatment plants will impact 0.12 acres of wetland. Kane County's nonpoint source management ordinance requires that areas of wetland greater than 0.190 acres require mitigation; therefore, wetland mitigation is proposed for the impacted wetlands.</p> <p>The Illinois Historic Preservation Agency determined that no significant historical, architectural, or archaeological resources are located in the proposed project area. The agency has no objections to the amendment request.</p> <p>According to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), there is one Zone AE and Zone A (100-year) floodplain and floodway associated with Mill Creek and one Zone A floodplain associated with Blackberry Creek. No irrigation may</p>	



<p>take place within the 10-year floodplain or in any wetland locations.</p> <p>The Illinois Department of Natural Resources' Endangered Species Consultation determined that no adverse effects would occur from the proposed amendment.</p> <p>The United States Department of the Interior Fish and Wildlife Service determined that there were several highly functional wetlands within the land treatment areas. The Agency cautioned the District to avoid impacts to these sites. The agency noted that environmental studies should be considered to address how the project would affect water quality and quantity, including any effects associated with future developments made possible by the proposed project. Staff supports the agency's recommendations and recommends that the proposed treatment system and spray irrigation areas be designed so as to have no impact on any surface waters, including wetlands.</p> <p>Both a 100 year flood and a 10 year floodplain are located within the project location. The applicant asserts that no irrigation will take place within the 10-year floodplain.</p> <p>There are several types of silt loam soils identified within the amendment area. Overall, these soils are moderately well drained to well drained soils and have moderate permeability and considered suitable for irrigation. In an effort to avoid over irrigating the soil, the irrigation rate will be calculated based on a minimum permeability rate. The irrigation areas will also be planted with a grass-seed mixture to help the areas to drain properly. There will be a minimum of three monitoring wells for each spray irrigation area to ensure compliance with groundwater standards. Groundwater monitoring will be sampled at the surface of the water table and at a depth of 5 feet below the water table.</p> <p>Recommendations</p> <ul style="list-style-type: none"> • The proposed treatment system and spray irrigation areas should be designed so as to have no impact on any surface waters, including wetlands. 	
<p>5. <i>"The proposed amendment should not adversely affect the cost-effectiveness of the Areawide Water Quality Management Plan for meeting water quality standards in the facility planning areas as a whole."</i></p>	
<p>The applicant is proposing to service the proposed development through an advanced MBR land application system. The treatment plant will be designed to treat a capacity of 6,000 P.E. and constructed in two phases of 3,000 P.E. each.</p> <p>The applicant's Facilities Plan dated June 2, 2009 indicates a total cost of \$17,699,200 to provide wastewater service. Of that total, \$11,299,200 is projected for development of the wastewater treatment facility, \$1,250,000 for pump stations, and \$5,150,000 for collection sewers. A connection fee was not associated with GPSD's request. The applicant's amendment application asserts that costs for the on-site and alternative systems, inspection/construction management, project management/design, sludge handling facilities and pump stations are all included in the cost of the WWTP. However, supplemental information provided by the applicant in its submission entitled <i>Written Submission of the Grand Prairie Sanitary District in</i></p>	



Support of CMAP Water Quality Review # 09-WQ-005 does not provide costs for inspection/construction project management or project management design. It is unknown if these costs are included in GPSD's wastewater treatment facilities costs.

The annual estimated operation, maintenance and replacement costs for the proposed facility total \$337,500 and include costs for labor, utilities, materials, equipment replacement, outside services, and miscellaneous charges. The proposed facility will be financed in its entirety through the Illinois EPA Revolving Loan Fund.

The applicant evaluated one wastewater treatment alternative: treatment from the MCWRD's Reclamation and Reuse Plant which utilizes a land application system. The plant has been in operation for 15 years and does not involve the discharge of treated effluent to surface waters.

The GPSD estimated a total cost of \$41,280,500 to receive wastewater service from the MCWRD FPA. A breakdown of such costs is as follows:

Expense	Service from MCWRD (Costs based on NIFC WQ Review # 06-WQ-168)	Service from GPSD
WWTP	4,500,000	11,299,200
Pump Station	1,250,000	1,250,000
Collection Sewers	5,150,000	5,150,000
Inspection/Construction Project Management	545,000	-0- Costs not provided by GPSD
Project Management/Design	1,090,000	-0- Costs not provided by GPSD
Total	12,535,000	17,699,200
Purchase of System Capacity	28,745,500	0
Grand Total	41,280,500	17,699,200

GPSD included a \$28,745,500 purchase of system capacity as part of MCWRD's costs since it does not own any excess capacity in its sewage system to provide service to the development and would have to purchase this capacity separately through Shodeen Trust. According to a 1995 Purchase Agreement between Shodeen Trust and MCWRD "Shodeen would own all excess capacity and be entitled to charge a fee before any other property could connect to the MCWRD system." (See *Written Submission of the Grand Prairie Sanitary District in Support of CMAP Water Quality Review # 09-WQ-005*). Pursuant to the Shodeen Trust, the proposed development is subject to a \$10,200 per residential unit excess capacity fee payment, similar to a connection fee, totaling \$28,745,500 for the proposed development. GPSD notes that existing landowners are in litigation with Shodeen Trust challenging the legality of the Excess Capacity provisions in the agreement (See *Written Submission of the GPSD in Support of CMAP WQ Review # 09-WQ-005 pg. 10*).

Though Staff respectfully acknowledges GPSD's concerns, the matter of recapture provisions as outlined by Shodeen Trust and the MCWRD in its Purchase Agreement are matters that must be examined and resolved in a court of law and not by the Wastewater Committee.



MCWRD, in a letter dated March 30, 2009, objected to GPSD's request to provide wastewater service to the proposed development. MCWRD noted that "the Settlements of LaFox developers initially approached the MCWRD about the possibility of annexing into the MCWRD in 2005." (Mill Creek Water Reclamation District letter dated March 30, 2009) Based on this request, the MCWRD requested an expansion of both its FPA boundary and land treatment system to include the proposed development on October 18, 2006. This request was reviewed and approved by both the Northeastern Illinois Planning Commission (NIPC Water Quality Review # 06-WQ-168) and the Illinois EPA. Since that time, MCWRD has incurred \$582,000 in costs; it "prepared plans, drawings and specifications relating to the necessary infrastructure and improvements, and obtained permits from the IEPA for construction and operation of improvements to its water supply system and its wastewater recycling facilities to serve the Settlements of LaFox Development." (Letter Mill Creek Water Reclamation District letter dated March 30, 2009) A breakdown of such costs is as follows:

Wastewater Treatment Facility-Related Expansions to Date	Cost
Additional continuous backwash upflow sand filters and expanded filter building	\$365,000
Parallel forcemain from Lift Station No. 6 for future connection to Settlements of LaFox	\$77,000
Bi-directional irrigation transfer pipeline from Irrigation Pump Station No. 1 for future connection to Settlements of LaFox	\$77,000
Total Wastewater Facility Expansion Costs	\$519,000
Water Supply Facilities Constructed to Date	
12-inch watermain extended to northwest corner of Mill Creek Neighborhood Y for future connection to Settlements of LaFox	\$8,000
16-inch watermain along Brundidge Road to Keslinger Road for future connection to Settlements of LaFox	\$55,000
Total Water Supply Facilities Constructed to Date	\$63,000
Total Expenditures for Construction of Infrastructure to Date	\$582,000

Despite MCWRD's claims, GPSD argues that these claims are unwarranted since costs incurred for infrastructure improvements were funded by the landowners. GPSD also argues that wastewater facilities built by MCWRD to provide service were not built for the property and do not extend to the Subject Property). However, no documentation was provided by the MCWRD to support these claims.



<p>While considering GPSD's argument, it is important to keep in mind that the developer initially approached MCWRD about the possibility of annexing into the MCWRD in 2005. The developer, at a later date, then approached the Grand Prairie Sanitary District "requesting that it initiate efforts to develop a sanitary system" since "efforts to use the MCWRD could not be consummated because of the high cost of doing so." (Grand Prairie Sanitary District letter dated March 2, 2009) In essence, these actions suggest that the developer is shopping around for wastewater and drinking water services, much as one might shop for other services. However, for three years the MCWRD has acted in reliance on the developer's request for services and has incurred significant costs as a result. The MCWRD has not indicated that it cannot provide wastewater treatment services to the area, as was the situation with several previous FPA amendment requests including the Northern Moraine WRD and the Village of Lakemoor. Granting approval of the GPSD request would usurp funds already expended by the MCWRD to provide service to the amendment request.</p> <p>Facility Planning Areas are defined as the area considered for possible wastewater treatment service (the "service envelope") within a twenty year planning period as specified in 40 CFR 35.2030(b)(3). Once approved by the IEPA, an FPA is an area in which a DMA has the right to plan, design, construct, own, and operate sewer facilities (wastewater treatment plants, interceptors, collection systems, etc.) and to apply for federal and/or state funds and permits associated with the construction of these wastewater facilities.^b While it is possible for areas to be transferred out of an FPA in order for development to obtain wastewater treatment services from another DMA in another FPA, it does not happen often, and it has generally been the result of the inability to provide wastewater treatment services in a timely fashion. Such is not the case here.</p> <p>As a planning tool, the FPA process gives designated management agencies (DMA) some assurance that their wastewater infrastructure investments will remain secure from competing DMAs. Therefore, one should not ignore MCWRD's previous approval by both NIPC and the Illinois EPA to provide wastewater service to the proposed parcel through a land application system.</p>	
<p>6. <i>"The proposed amendment should have the endorsement of the designated management agency for wastewater treatment and substantial support by the municipalities within the affected facility planning area.</i></p> <p>Currently, the proposed development is located within the Mill Creek Water Reclamation District (MCWRD) FPA. The Mill Creek Reclamation and Reuse Plant is a land application system that does not involve the discharge of treated effluent to surface waters. The plant has been in operation since the early 1990s and was the first wastewater treatment plant to provide service through use of a land application system in Kane County.</p> <p>MCWRD objected to the amendment request in a letter dated March 31, 2009. MCWRD</p>	<p>Inconsistent</p>

^b Illinois Environmental Protection Agency. 2003. *Final FPA Program Evaluation*. Prepared by Consensus Solutions, Ltd. See <http://www.epa.state.il.us/water/watershed/facility-planning/facility-planning.pdf>.

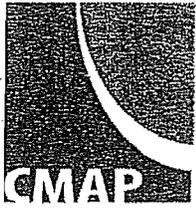


<p>argued that it has spent resources and time planning to provide wastewater services to the subject property.</p> <p>Shodeen Incorporated, the developer of the Mill Creek Wastewater Reclamation and Reuse Facility also objected to the proposed amendment request in a letter dated March 28, 2009. Shodeen, Inc. requests that CMAP and the Wastewater Committee support its predecessor's (NIPC) past actions to support regional facilities versus the development of an array of package treatment plants as proposed in the amendment request.</p> <p>Shodeen Inc. (the developer) asserts that it entered into a Utility Services Agreement with Wyndham Deerpoint and Foxford LLC to provide water and sewer services to the proposed development on April 11, 2006. On March 3, 2009 Shodeen Inc. was informed in writing by parties representing the developer that negotiations between the developer (Settlements of LaFox) and the MCWRD failed and no agreement to provide sanitary sewer services had been reached. This statement however conflicts with MCWRD's claims that it has been planning to provide sewer and water service to the development and installed watermains, obtained permits for construction, and prepared plans and drawings all in an effort to provide sewer and water service to the proposed development.</p>	
<p>7. <i>"The proposed amendment should not adversely affect adjoining units of government."</i></p> <p>GPSD's jurisdictional boundary spans approximately 1,280 acres and is concurrent with the Settlements of LaFox Development. The GPSD, in a document entitled <i>Written Submission of the Grand Prairie Sanitary District in Support of CMAP Water Quality Review # 09-WQ-005</i> argues that since the property in question is within the corporate limits of the GPSD, it has sole responsibility to decide how sewer and water will be provided to the property. The GPSD asserts that the location of the property within the Mill Creek FPA has little if anything to do with the authority of the sanitary district to provide sanitary sewer.</p> <p>Though Staff acknowledges GPSD's concerns, it should be noted that corporate limits do not dictate the location of FPA boundaries. GPSD however asserts that the subject property was added to the MCWRD FPA in 2006, after creation of the GPSD District in 2002. If the issue of corporate limits is applicable or decisive in this instance, Staff questions why the issue was not raised when MCWRD's request was considered by NIPC and the Illinois EPA. In addition, whether the GPSD or the MCWRD has full power to relegate the disposal of sanitary sewer services within a corporate boundary is a legal issue and the current process is not the venue to determine such legal matters.</p>	<p>Inconsistent</p>
<p>8. <i>"The proposed amendment should be consistent with other county and regional or state policies, such as the Governor's Executive Order #4 on the preservation of agricultural land."</i></p>	<p>Consistent</p>



<p><u>Illinois Department of Agricultural Protection</u></p> <p>The proposed land application system will require conversion of some areas of prime farmland to be converted from their existing agricultural use to treat wastewater generated by the subdivision.</p> <p>Because the requested amendment involves the establishment of a land treatment system and no FPA change is necessary, the IDOA submitted a letter dated March 16, 2009 voicing no comment on the amendment request.</p> <p><u>Kane County</u></p> <p>Kane County initially raised concerns regarding the authority of the Grand Prairie Sanitary District to submit its application based on the absence of proper appointment of the District's Board of Trustees. Kane County, in a letter dated July 29, 2009 however withdrew its concerns since these have been satisfactorily addressed. (Letter dated July 29, 2009 from Kenneth Shepro)</p> <p>The proposed subdivision is a transportation centered development. It will meet the vision of the Kane County 2020 plan and create large residential development with a commercial center and large tracts of preserved openspace. No comments from Kane County have been received on the amendment request.</p> <p><u>NIPC 2040 Regional Framework Plan</u></p> <p>Both Mill Creek and the unincorporated Village of LaFox are identified as "Town Centers" in the NIPC 2040 Plan, which states the following:</p> <p>Town Centers are small suburban or rural hubs with residential and commercial uses that support daily needs. Town Center residents depend on nearby Metropolitan or Community Centers for specialized services. Town Centers have moderate to low density, primarily residential land uses with some commercial or retail activities such as groceries, pharmacies, smaller shops, and restaurants. Some civic, recreational, and support uses are mixed in. These centers typically have an accessible and walkable street system.</p>	
<p>9. <i>"Consideration will be given to evidence of municipal or county zoning approval and commencement of development activity prior to Areawide Water Quality Management Plan adoption in January 1979."</i></p>	<p><i>Not Applicable</i></p>

EXHIBIT F



Chicago Metropolitan Agency for Planning

233 South Wacker Drive
Suite 800, Sears Tower
Chicago, IL 60606

312-454-0400 (voice)
312-454-0411 (fax)
www.cmap.illinois.gov

September 15, 2009

Ms. Amy Walkenbach
Nonpoint Source Unit Manager
Illinois Environmental Protection Agency
1021 N. Grand Avenue East/P.O. Box 19276
Springfield, IL 62794-9276

RE: CMAP Water Quality Review 09-WQ-005: The Grand Prairie Sanitary District (GPSD) has submitted a request to install a new spray irrigation wastewater treatment facility to serve the Settlements of LaFox Development. The treated effluent will be land applied throughout the development. The land application system will be located in Kane County, IL.

At the September 9, 2009 meeting of the Wastewater Committee, the Chicago Metropolitan Agency for Planning considered the above referenced water quality amendment request.

Legislation forming the Wastewater Committee requires a majority vote for the Committee to take any action. Four members of the Committee were in attendance at the September 15, 2009 Wastewater Committee Meeting. A two-to-two vote was reached on behalf of the subject request; therefore, a recommendation of either support or nonsupport cannot be provided.

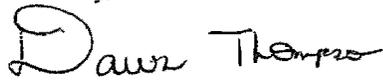
The following documents are attached for your information and review:

- Reviews of the amendment request dated August 12, 2009 and September 9, 2009;
- Grand Prairie Sanitary District (GPSD) August 12, 2009 Letter;
- CMAP Rebuttal to GPSD Letter;
- Cost Incurred by Mill Creek Sanitary District;
- GPSD Assessment of MCWRD Shodeen Excess Capacity Charge;
- Shodeen/MCWRD Excess Capacity Charge;
- Letter from Kent Shodeen;
- Mill Creek Comparison of Costs Letter;
- Mill Creek Letter regarding Grand Prairie Sanitary District dated September 1, 2009;
- Affidavit of Grand Prairie Sanitary District;
- Mill Creek - Certified Public Accountant Letter;

- Mill Creek Letter regarding Meeting Procedures;
- Kane County Letter dated September 4, 2009;
- Kane County additional Support letter dated September 4, 2009;
- Mill Creek Support Letter;
- Letter from the Mill Creek Water Reclamation dated March 31, 2009;
- Letter from Shodeen Incorporated dated March 28, 2009;
- Written Submission of the Grand Prairie Sanitary District in Support of the CMAP Water Quality Review 09-WQ-005;
- Letter from the Grand Prairie Sanitary District dated March 2, 2009;
- Letter from Holland and Knight;
- Letter from Sheaffer and Roland;
- Letter from County of Kane;
- Letter from the Conservation Foundation; and
- A letter to CMAP on the Conservation Foundation's Comments

If you have any questions regarding this Committee action, please contact our Programming Department.

Sincerely,



Dawn Thompson
Associate Planner

- cc: Tim Kellogg, Grand Prairie Sanitary District (w/o attachments)
 Donald Manikas, Locke Lord Bissell & Liddell LLP (w/o attachments)
 Mr. Dave Patzelt, Shodeen (w/o attachments)
 Mr. Brian Grinstead, President, Mill Creek Water Reclamation District (w/o attachments)
 Ms. Marlo M. Del Percio, Grand Prairie Sanitary District (w/o attachments)
 Mr. Victor P. Filippini, Jr., Holland & Knight (w/o attachments)
 Mr. Jason Fowler, Sheaffer and Roland (w/o attachments)
 ✓ Mr. John Sheaffer, Sheaffer and Roland (w/o attachments)
 Mr. Al Keller, IEPA (w/o attachments)

EXHIBIT G

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November 25, 2009

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Amy Dragovich
Permit Section
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, IL 62794-9276

Re: Log No. 2825-2009 Grand Prairie Sanitary District

Dear Ms. Dragovich:

Please be advised that we represent the Mill Creek Water Reclamation District ("Mill Creek"). Mill Creek was established in November of 1992 and provides potable water and sewage treatment for the Mill Creek Planned Unit Development ("PUD") and other properties within its Facility Planning Area ("FPA"). Mill Creek currently provides potable water and wastewater treatment to approximately 2000 homes. The property served by Mill Creek is generally located west of the municipalities of Batavia and Geneva and west of Randall Road in Kane County, Illinois.

Grand Prairie Sanitary District ("Grand Prairie") was established in 2002. Unlike Mill Creek, Grand Prairie has no facilities, and serves no customers. Its boundaries encompass a 1247 ± acre parcel which has been zoned as a planned unit development ("Settlements") by Kane County. For many reasons, including presumably, Grand Prairie's lack of facilities and inability to provide service to the Settlements property, the Settlements owners contacted Mill Creek and requested that Mill Creek add the Settlements property to Mill Creek's FPA and provide service to the Settlements property.

Only three years ago, the owners/developers of the Settlements joined with Mill Creek and others to petition NIPC (now "CMAP") to enlarge Mill Creek's FPA to include the Settlements. Grand Prairie never objected. As a result, the enlargement of the FPA was eventually approved and Mill Creek was named Designated Management Agent ("DMA") for the Mill Creek FPA.

In connection with their attempts to obtain approvals from Kane County, the owners of the Settlements represented to Kane County that their development would be serviced by Mill Creek, and they provided in their zoning application that they would annex the Settlements into the corporate boundaries of Mill Creek. The Settlements' planned unit development, as issued,

November 25, 2009

Page 2

contemplates that Mill Creek will serve the Settlements. Again, Grand Prairie never objected to the zoning proceedings in Kane County.

In reliance on the requests of the Settlements' owners, Mill Creek prepared plans, drawings and specifications for the necessary infrastructure and improvements to serve the Settlements, obtained IEPA permits for construction and operation of improvements to Mill Creek's water supply and sewerage treatment systems to serve the Settlements and completed or caused others to complete numerous infrastructure improvements to serve the Settlements development. So that there is no confusion, please know that Mill Creek stands ready to serve the Settlements and annex the Settlements property into Mill Creek's corporate boundaries on a reasonable basis.

In fact, the Settlements property would already have been annexed into Mill Creek, but for the last-minute change of heart by the Settlements' owners. In May, 2008, after two (2) years of negotiations that had resulted in an agreement in principle, and when the parties were ready to finalize their agreement relating to annexation, the owners of Settlements unilaterally, and without discussion, submitted an amended proposal for annexation. This new proposal (a) was totally different from the proposal that had been previously discussed and that had been nearly finalized, between the Settlements' owners and Mill Creek, and (b) was clearly submitted with the knowledge, expectation and intention that it would be rejected by Mill Creek. In July of 2008, as a result of the new proposal, Mill Creek informed the owners of the Settlements that Mill Creek could not move forward with annexation of the Settlements into Mill Creek's corporate boundaries on the basis set forth in the new proposal, but that it remained interested in annexing the Settlements property.

Thereafter, Grand Prairie, a sanitary district with no facilities and no customers, applied to CMAP to install and operate a sewage treatment facility to serve the Settlements property within the Mill Creek FPA. Although the Settlements owners supported this request, the CMAP staff made a recommendation of "Non-Support" to the CMAP Wastewater Committee. The August 12, 2009, Staff Report contains various reasons for "Non-Support." Some of these reasons are as follows (pp. 4, 5):

The proposed development [Settlements] is currently located within the Mill Creek Water Reclamation District FPA. Mill Creek's Reclamation and Reuse Plant is also a land application system, has been in operation for 15 years, and does not involve the discharge of treated effluent to surface waters.

MCWRD, in a letter dated March 31, 2009, objected to GPSD's request to provide wastewater service to the proposed development. MCWRD noted that "the Settlements of LaFox developers initially approached the MCWRD about the possibility of annexing into the MCWRD in 2005." (Mill Creek Water Reclamation District letter dated March 30, 2009). Based on this request, on October 18, 2006, the MCWRD requested an expansion of both its FPA boundary and land treatment system to include the proposed development. This request was reviewed and approved by both the Northeastern Illinois Planning Commission (NIPC Water Quality Review # 06- WQ-168) and the Illinois EPA. Since that time, MCWRD has incurred \$582,000 in costs. They have "prepared plan, drawings and specifications relating to the necessary infrastructure and improvements, and obtained permits from the IEPA for construction and operation of

improvements to its water supply system and its wastewater recycling facilities to serve the Settlements of LaFox Development.” (Letter Mill Creek Water Reclamation District letter dated March 31, 2009). (See breakdown of MCWRD’s costs in Review Criteria No. 5 associated with the construction of infrastructure in preparation for serving the proposed development.) Granting approval of the GPSD request would undermine efforts and waste funds already expended by the MCWRD to provide service to the proposed development.

Undermining infrastructure investments of designated management agencies does not fit into the context of the Facility Planning Area process. Facility Planning Areas are defined as areas considered for possible wastewater treatment service (the “service envelope”) within a twenty year planning period as specified in 40 CFR 35.2030(b)(3). Once approved by the IEPA, an FPA is an area in which a DMA has the right to plan, design, construct, own, and operate sewer facilities (wastewater treatment plants, interceptors, collection systems, etc.) and to apply for federal and/or state funds and permits associated with the construction of these wastewater facilities. Granting GPSD’s request would undermine this objective.

Staff also cannot ignore the precedent of regionalization that has been established by the Chicago Metropolitan Agency for Planning and its predecessors, the Northeastern Illinois Planning Commission (NIPC) and its former Water Resources Committee. The promotion of regionalization has been established and outlined in the *Water Quality Management Plan Amendment Process and Procedures* manual, Appendix V, which provides procedures for determining compliance with point source management policies. The manual states: “Another recommended alternative is to evaluate regional treatment options which typically provide a more reliable level of effluent quality than small wastewater plants.” This approach involves constructing one wastewater treatment facility to serve multiple communities, where two or more plants may otherwise have been built. This approach discourages small conventional treatment plant discharges which often experience failure. Therefore, CMAP and its predecessor NIPC strongly encouraged regionalization of treatment facilities where possible. Granting approval of GPSD’s request would undermine this precedent.

Grand Prairie made a lengthy explanation to support its new CMAP request. This explanation ignored the Settlements’ initial request to join Mill Creek’s FPA and Grand Prairie’s silence on the issue, ignored Federal law and ignored IEPA rules. Instead, Grand Prairie misinterpreted and misapplied caselaw (some from other jurisdictions) in an attempt to obfuscate the real issues. CMAP requested and received advice from its legal counsel, which concluded that Grand Prairie’s reliance upon the cited cases was misplaced.

On September 15, 2009, Dawn Thompson of CMAP sent Amy Walkenbach of IEPA a letter (Exhibit “I”) enclosing various documents submitted to CMAP and stating that, on the basis of a two-to-two vote, “a recommendation of either support or nonsupport cannot be provided.” These documents indicate that various parties participated and that Mill Creek strongly protested Grand Prairie’s proposal. Mill Creek has been informally told that IEPA was waiting for CMAP’s recommendation before acting on Grand Prairie’s permit applications.

Mill Creek wants to make sure that the Grand Prairie IEPA permit applications will be acted upon only after written notice to Mill Creek and with due consideration of the facts and applicable law, which in fact preclude issuance of permits to Grand Prairie. It is important to remember that the Settlements property is located in Mill Creek's FPA and that Mill Creek is the DMA of that FPA. Further, Mill Creek has already been issued the permits described above to allow its system to serve the Settlements. Needless to say, Mill Creek strongly objects to Grand Prairie's proposed actions within Mill Creek's FPA.

Further, notwithstanding the legal arguments of Grand Prairie, Federal Law and your own Agency rules prohibit Grand Prairie from receiving any permits.

First, Section 1288(d) of the Clean Water Act, (33 V.S.C.A. § 1288(d)) provides:

(d) Conformity of works with area plan

After a waste treatment management agency having the authority required by subsection (c) of this section has been designated under such subsection for an area and a plan for such area has been approved under subsection (b) of this section, the Administrator shall not make any grant for construction of a publicly owned treatment works under section 1281 (g)(1) of this title within such area except to such designated agency and for works in conformity with such plan.

Mill Creek, as the DMA of the Mill Creek FPA, has already been issued permits to expand its facilities to serve the Settlements, which is located within the Mill Creek FPA. Under these circumstances, Federal Law prohibits the subsequent issuance of permits to Grand Prairie to build a treatment facility within Mill Creek's FPA.

Second, IEPA's own rules prohibit issuance of permits to Grand Prairie under the present circumstances. Part 351 of this Agency's Rules set forth various requirements for conflict resolution in revising water quality management plans. Probably due to Grand Prairie's failure to provide full disclosure, Mill Creek has never received due and proper notice of Grand Prairie's proposed action in obtaining IEPA permits. Just as Grand Prairie's permit request puts it at odds with Federal Law, such request is prohibited by this Agency's Rule, Section 351.502 which provides:

<B. Section 351.502 Exceptions to Boundaries for Facility Planning Areas>

For purposes of issuing permits, other than NPDES permits, the Agency may recognize exceptions to boundaries of facility planning areas without revising the approved WQM Plan in the following circumstances.

- a) When the General Assembly, by legislation, authorizes the extension of sewer service to an area outside the facility planning area established by the Agency pursuant to federal regulations; or

b) When all of the following conditions are present:

- 1) The exception will not significantly impact wastewater planning in any facility planning area;
- 2) A revision would otherwise be necessary because a proposed sewer would cross a facility planning boundary; and
- 3) The designated facility planning agency, within whose facility planning area the area to be serviced by the sewer lies, has authorized such sewer extension by permit, agreement or other written documents.

Under the current facts, Grand Prairie does not come within the exceptions set forth above. This matter clearly does not involve extension of sewer service as contemplated by part (a). In order to qualify as an exception under subsection (b), all of the conditions must be met. It is not clear that any of these conditions have been met. Certainly, no crossing of a facility planning boundary is involved (as required by subsection (b)(2) above) and Mill Creek has not authorized the sewer extension (as required by subsection (b)(3) above). Accordingly, the request does not come within the exceptions to this Rule, and Grand Prairie is not entitled to receive the permits for which it has applied.

As the DMA of the Mill Creek FPA, Mill Creek believes that it must be included in any decision-making process before the IEPA and that the above-cited Federal Law and Agency rules must be followed. We respectfully request that you advise us in writing of the status of Grand Prairie's ongoing permit application and particularly, the anticipated timing of the various stages of your decision-making process and any opportunity that Mill Creek will have to participate in this process.

We look forward to hearing from you.

Very truly yours,

LOCKE LORD BISSELL & LIDDELL LLP


Donald J. Manikas

DJM:clp

cc: Brian Grinstead
Mark Ruby
Mike Iwan
Thomas Cisar
John Sheaffer

EXHIBIT H



Midwest Office
Sheaffer & Roland Inc. | 611 Stevens St | Geneva | IL 60134

telephone: (630) 208-9898 | fax: (630) 208-9895
information@sheafferandroland.com | sheafferandroland.com

October 13, 2009

Ms. Amy Dragovich
Permit Section
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

VIA Certified Mail
Return Receipt Requested

**Re: Log No. 2825-2009
Grand Prairie Sanitary District**

Dear Ms. Dragovich:

We are the Engineer for the Mill Creek Water Reclamation District (MCWRD), which is the Designated Management Agent (DMA) for the Mill Creek Facilities Planning Area (MCFPA) in which the Grand Prairie Sanitary District (GPSD) is entirely located.

The IEPA issued MCWRD Permit No.: 2008-GO-1239 dated November 6, 2008 for the expansion of its land application spray irrigation wastewater system to serve the proposed subdivision "The Settlements of La Fox", which is coterminous with GPSD.

MCWRD has begun the expansion of its zero discharge wastewater system to serve "The Settlements of La Fox" area. MCWRD currently serves over 2,000 homes in the "Mill Creek" Subdivision in unincorporated Kane County.

MCWRD hereby objects to the GPSD request for amendment of the Water Quality Management Plan (WQMP) to construct a new land application system in the MCFPA. MCWRD is ready, willing, and able to serve any newly constructed homes that might be built on the vacant land that comprises the GPSD area.

Please copy me on any correspondence concerning the permit process on this matter.

Thank you for consideration.

Sincerely,



John R. Sheaffer, II
President
Sheaffer & Roland, Inc.
Engineer for Mill Creek Water Reclamation District

Cc: Brian Grinstead, President MCWRD
Mark Ruby, Trustee MCWRD
Michael Iwan, Trustee MCWRD
Don Manikas, Attorney MCWRD



Engineering excellence since 1976

EXHIBIT I

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
WATER POLLUTION CONTROL PERMIT

LOG NUMBERS: 2825-09

PERMIT NO.: 2010-AA-2825

FINAL PLANS, SPECIFICATIONS, APPLICATION
AND SUPPORTING DOCUMENTS
PREPARED BY: Lintech Engineering LLC

DATE ISSUED: FEB 19 2010

SUBJECT: GRAND PRAIRIE SANITARY DISTRICT – New WWTP & Spray Irrigation (L17-4514)

PERMITTEE TO CONSTRUCT, OWN AND OPERATE

Grand Prairie Sanitary District
P.O. Box 36
La Fox, Illinois 60147

Permit is hereby granted to the above designated permittee(s) to construct and/or operate water pollution control facilities described as follows:

A. Wastewater Treatment Facility

A wastewater treatment facility consisting of an influent pump station (3 pumps each rated @ 360 gpm); two fine screens (each rated @ 720 gpm); flow pre-equalization basin (52.5'x18.3' @ 12.5' SWD); an activated sludge system-consisting of two anoxic tanks (20'x15'@14.5' SWD, each), two aeration tanks (20'x15'@14.5' SWD, each), and two membrane bioreactor tanks-MBR (25'x11'@8.5' SWD, each); chlorine disinfection system; two aerobic digesters (31.5'x23.5'@12' SWD, each); digested liquid sludge storage tank (64.34' diameter @ 18.26' SWD); miscellaneous associated piping and electrical equipment along with all necessary ancillary appurtenances not mentioned herein but detailed in the basis of design, plans and specifications to make the facilities covered under this permit complete and operational.

B. Irrigation System

A spray irrigation system consisting of an irrigation pump station (with 3 pumps each rated @ 1000 gpm); an effluent storage lagoon (6.9 acres); fixed sprinklers for land application of wastewater effluent on approximately 52.5 acres with an average weekly application rate of 2.5 inches or less.

Upon completion of the above listed facilities, the above referenced treatment plant will be rated at the following capacities:

Design Average Flow (DAF) = 0.3 MGD
Design Maximum Flow (DMF) = 1.03 MGD
Organic Loading = 660 Lbs/day
Solids Loading = 750 Lbs/day

THE STANDARD CONDITIONS OF ISSUANCE INDICATED ON THE REVERSE SIDE MUST BE COMPLIED WITH IN FULL. READ ALL CONDITIONS CAREFULLY.

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DIVISION OF WATER POLLUTION CONTROL

cc: EPA-Des. Plaines FOS
Lintech Engineering LLC
Wills Burke Kelsey Associates
IEPA/BOW/IFAS - Lanina Schnapp
Records - Municipal
Binds



Alan Keller, P.E.
Manager, Permit Section

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
WATER POLLUTION CONTROL PERMIT

LOG NUMBERS: 2825-09

PERMIT NO.: 2010-AA-2825

FINAL PLANS, SPECIFICATIONS, APPLICATION
AND SUPPORTING DOCUMENTS
PREPARED BY: Lintech Engineering LLC

DATE ISSUED: FEB 19 2010

SUBJECT: GRAND PRAIRIE SANITARY DISTRICT – New WWTP & Spray Irrigation (L17-4514)

This Permit is issued subject to the following Special Condition(s). If such Special Condition(s) require(s) additional or revised facilities, satisfactory engineering plan documents must be submitted to this Agency for review and approval for issuance of a Supplemental Permit.

SPECIAL CONDITION 1: The operational portion of this permit expires on December 31, 2014, and is subject to renewal at that time.

SPECIAL CONDITION 2: The operation of this slow rate land application system shall be under a certified operator as required under Title 35, Subtitle C, Chapter 1, Part 312-Treatment Plant Operator Certification. This facility, which includes the wastewater treatment plant, irrigation pumps, effluent storage lagoon, and spray irrigation area(s) shall be under the exclusive control of the certified operator. Control of the irrigation system by anyone other than the certified operator shall be violation of this permit.

SPECIAL CONDITION 3: This permit is issued with the expressed understanding that there shall be no surface discharge from these facilities. Should any such discharge be anticipated, the permittee shall apply for an NPDES permit at least 180 days prior to such discharge.

SPECIAL CONDITION 4: The spray irrigation system cannot be operated when the water table in the irrigation area is within 4 feet of the surface. A 4 foot layer of soil or more must be maintained in an aerobic condition prior to spray irrigation. The groundwater monitoring wells must be monitored at the beginning of each irrigation week and the groundwater levels recorded.

SPECIAL CONDITION 5: The outer edge of the area wetted by the spray mist shall not be closer than 200 feet from any existing or proposed potable water supply well.

SPECIAL CONDITION 6: The spray irrigation system shall be operated at an average weekly application rate of 2.5 inches or less with the following maximum rates depending upon climatic conditions:

Maximum hour – 0.75 inches
Maximum day – 1.50 inches
Maximum week – 3.00 inches

Any application received during the 24 hour period prior to irrigation shall be subtracted from the 1.5 inches maximum day rate to determine the maximum day application rate that can be applied.

SPECIAL CONDITION 7:

A. Treated wastewater shall be applied to sites within the following guidelines:

1. It shall not be applied to sites during precipitation.
2. It shall not be applied to sites which are saturated or with ponded water.
3. It shall not be applied to ice or snow covered sites or when the ground is frozen.

**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
WATER POLLUTION CONTROL PERMIT**

LOG NUMBERS: 2825-09

PERMIT NO.: 2010-AA-2825

**FINAL PLANS, SPECIFICATIONS, APPLICATION
AND SUPPORTING DOCUMENTS**

DATE ISSUED: FEB 19 2010

PREPARED BY: Lintech Engineering LLC

SUBJECT: GRAND PRAIRIE SANITARY DISTRICT – New WWTP & Spray Irrigation (L17- 4514)

4. It shall not be applied when winds exceed 15 mph.

B. It is recommended that treated wastewater not be applied to the site when precipitation is imminent.

SPECIAL CONDITION 8: The following monitoring is required:

<u>Parameter</u>	<u>Data</u>	<u>Sample Frequency</u>
Effluent Flow	Monthly Avg., Daily Max (mgd)	Continuous
Effluent Storage Lagoon	Water Level	Daily
Groundwater		
1. Nitrate	conc. (mg/L)	Quarterly
2. Nitrite	conc. (mg/L)	Quarterly
3. NH ₃ -N	conc. (mg/L)	Quarterly
4. Chloride	conc. (mg/L)	Quarterly
5. Sulfate	conc. (mg/L)	Quarterly
6. pH	units	Quarterly
7. Total Dissolved Solids	conc. (mg/L)	Quarterly
8. Fecal Coliform	conc. (#/100mL)	Quarterly
Wastewater Effluent Applied to Land	inches/day	Daily
Chlorine Residual of Wastewater Effluent Applied to Land	conc. (mg/L)	Daily when utilized
Level in Monitoring Wells	inches below surface	Beginning of each Irrigation week

Quarterly reports shall be submitted to:

Manager, Des Plaines Region
Field Operation Section, DWPC
Illinois Environmental Protection Agency
9511 West Harrison Street
Des Plaines, Illinois 60016

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
WATER POLLUTION CONTROL PERMIT

LOG NUMBERS: 2825-09

PERMIT NO.: 2010-AA-2825

FINAL PLANS, SPECIFICATIONS, APPLICATION
AND SUPPORTING DOCUMENTS
PREPARED BY: Lintech Engineering LLC

DATE ISSUED: FEB 19 2010

SUBJECT: GRAND PRAIRIE SANITARY DISTRICT - New WWTP & Spray Irrigation (L17-4514)

These reports should be received no later than the 25th day of January, April, July, and October following the month from the end of the quarter.

A copy shall be submitted to:

Illinois Environmental Protection Agency
Division of Water Pollution Control
Permit Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

SPECIAL CONDITION 9: If this project is located within a wetlands, the U.S. Army Corps of Engineers may require a permit for construction pursuant to Section 404 of the Clean Water Act.

SPECIAL CONDITION 10: The Permittee shall be responsible for obtaining an NPDES Storm Water Permit prior to initiating construction if the construction activities associated with this project will result in the disturbance of one (1) or more acres total land area.

An NPDES Storm Water Permit may be obtained by submitting a properly completed Notice of Intent (NOI) form by certified mail to the Agency's Division of Water Pollution Control - Permit Section.

SPECIAL CONDITION 11: Upon completion of the construction described herein, the DWPC - Permit Section, and the Field Operation Section, DWPC located in Des Plaines, Illinois must be notified for a possible inspection of the new construction.

SPECIAL CONDITION 12: The issuance of this permit is not to be construed as an approval of the "Water Pollution Control Revolving Fund" loan program requirements.

SPECIAL CONDITION 13: The outer edge of the area wetted by spray mist shall not encroach on any wetlands, streams, water ways or other surface waters or public road rights of way under design maximum wind conditions.

SPECIAL CONDITION 14: The outer edge of the area wetted by spray mist shall not be closer than 200 ft. from any residential lot line including application under maximum wind conditions, unless the application area is surrounded by a fence with a height of 40 inches. If the application area is surrounded by a fence with a height of 40 inches, a minimum 25 feet buffer zone shall be provided.

A distance restriction is not required if the application area is a golf course and the application occurs only during hours between dusk and dawn; or the application area is a restricted access area to which public access is controlled and, the application and its associated drying time occurs during a period when the area is closed to the public.

**READ ALL CONDITIONS CAREFULLY:
STANDARD CONDITIONS**

The Illinois Environmental Protection Act (Illinois Revised Statutes Chapter 111-12, Section 1039) grants the Environmental Protection Agency authority to impose conditions on permits which it issues.

1. Unless the construction for which this permit is issued has been completed, this permit will expire (1) two years after the date of issuance for permits to construct sewers or wastewater sources or (2) three years after the date of issuance for permits to construct treatment works or pretreatment works.
2. The construction or development of facilities covered by this permit shall be done in compliance with applicable provisions of Federal laws and regulations, the Illinois Environmental Protection Act, and Rules and Regulations adopted by the Illinois Pollution Control Board.
3. There shall be no deviations from the approved plans and specifications unless a written request for modification of the project, along with plans and specifications as required, shall have been submitted to the Agency and a supplemental written permit issued.
4. The permittee shall allow any agent duly authorized by the Agency upon the presentations of credentials:
 - a. to enter at reasonable times, the permittee's premises where actual or potential effluent, emission or noise sources are located or where any activity is to be conducted pursuant to this permit;
 - b. to have access to and copy at reasonable times any records required to be kept under the terms and conditions of this permit;
 - c. to inspect at reasonable times, including during any hours of operation of equipment constructed or operated under this permit, such equipment or monitoring methodology or equipment required to be kept, used, operated, calibrated and maintained under this permit;
 - d. to obtain and remove at reasonable times samples of any discharge or emission of pollutants;
 - e. to enter at reasonable times and utilize any photographic, recording, testing, monitoring or other equipment for the purpose of preserving, testing, monitoring, or recording any activity, discharge, or emission authorized by this permit.
5. The issuance of this permit:
 - a. shall not be considered as in any manner affecting the title of the premises upon which the permitted facilities are to be located;
 - b. does not release the permittee from any liability for damage to person or property caused by or resulting from the construction, maintenance, or operation of the proposed facilities;
 - c. does not release the permittee from compliance with other applicable statutes and regulations of the United States, of the State of Illinois, or with applicable local laws, ordinances and regulations;
 - d. does not take into consideration or attest to the structural stability of any units or parts of the project;
 - e. in no manner implies or suggests that the Agency (or its officers, agents or employees) assumes any liability, directly or indirectly, for any loss due to damage, installation, maintenance, or operation of the proposed equipment or facility.
6. Unless a joint construction/operation permit has been issued, a permit for operating shall be obtained from the agency before the facility or equipment covered by this permit is placed into operation.
7. These standard conditions shall prevail unless modified by special conditions.
8. The Agency may file a complaint with the Board for suspension or revocation of a permit:
 - a. upon discovery that the permit application contained misrepresentations, misinformation or false statement or that all relevant facts were not disclosed; or
 - b. upon finding that any standard or special conditions have been violated; or
 - c. upon any violation of the Environmental Protection Act or any Rules or Regulation effective thereunder as a result of the construction or development authorized by this permit.

EXHIBIT J

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
WATER POLLUTION CONTROL PERMIT

LOG NUMBERS: 3153-09

PERMIT NO.: 2010-IA-3153

FINAL PLANS, SPECIFICATIONS, APPLICATION
AND SUPPORTING DOCUMENTS

PREPARED BY: Lintech Engineering LLC &
Willis Burke Kelsey Associates

DATE ISSUED: FEB 19 2010

SUBJECT: GRAND PRAIRIE SANITARY DISTRICT - Pump Station & Generator Building (L174514)
Force Main and Sanitary Sewer Trunk Line
(Grand Prairie Sanitary District - New Wastewater Treatment Plant) - Sanitary Sewer Permit

PERMITTEE TO CONSTRUCT, OWN, AND OPERATE

Grand Prairie Sanitary District
P. O. Box 36
La Fox, Illinois 60147

Permit is hereby granted to the above designated permittee(s) to construct and/or operate water pollution control facilities described as follows (quantities are approximate):

A lift station having 2 pumps with a rated capacity of 180 gpm at 69 feet of TDH, 4500 feet of 6 inch force main; 5862 feet of 8 inch sanitary sewer, 298 feet of 10 inch sanitary sewer, 3189 feet of 15 inch sanitary sewer, 1255 feet of 18 inch sanitary sewer, and 46 manholes to serve 13 single family dwelling buildings and 6 commercial buildings (offices/business and a Metra Train Station) and a future development area of approximately 1252 acres (60 P.E., 6,000 GPD, DAF) located at Bunker Road, Jones Street, Old La Fox Road, and Potter Drive with direct discharge to the above indicated sewage treatment plant.

This Permit is issued subject to the following Special Condition(s). If such Special Condition(s) require(s) additional or revised facilities, satisfactory engineering plan documents must be submitted to this Agency for review and approval for issuance of a Supplemental Permit.

SPECIAL CONDITION 1: The operational portion of this permit is contingent upon completion of construction and start of operation of all downstream transporting and treating facilities. Issuance of this permit is not to be construed as Agency agreement that the downstream transporting and treating facilities will be completed in time to serve this project.

SPECIAL CONDITION 2: Any connections to this sanitary sewer extension must be in accordance with the latest Revisions of Title 35, Subtitle C, Chapter 1. Permits must be obtained if required by said regulations.

SPECIAL CONDITION 3: If this project is located within a wetlands, the U.S. Army Corps of Engineers may require a permit for construction pursuant to Section 404 of the Clean Water Act.

Page 1 of 2

THE STANDARD CONDITIONS OF ISSUANCE INDICATED ON THE REVERSE SIDE MUST BE COMPLIED WITH IN FULL. READ ALL CONDITIONS CAREFULLY.

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DIVISION OF WATER POLLUTION CONTROL

cc: EPA-Des Plaines FOS
Lintech Engineering LLC
Willis Burke Kelsey Associates
IEPA/BOW/IFAS - Lanina Schnapp
Records - Municipal
Binds


Alan Keller, P.E.
Manager, Permit Section

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
WATER POLLUTION CONTROL PERMIT

LOG NUMBERS: 3153-09

PERMIT NO.: 2010-IA-3153

FINAL PLANS, SPECIFICATIONS, APPLICATION
AND SUPPORTING DOCUMENTS

PREPARED BY: Lintech Engineering LLC &
Willis Burke Kelsey Associates

DATE ISSUED: FEB 19 2010

SUBJECT: GRAND PRAIRIE SANITARY DISTRICT - Pump Station & Generator Building (L174514)
Force Main and Sanitary Sewer Trunk Line
(Grand Prairie Sanitary District - New Wastewater Treatment Plant) - Sanitary Sewer Permit

SPECIAL CONDITION 4: The Permittee to Construct shall be responsible for obtaining an NPDES Storm Water Permit prior to initiating construction if the construction activities associated with this project will result in the disturbance of one (1) or more acres total land area.

An NPDES Storm Water Permit may be obtained by submitting a properly completed Notice of Intent (NOI) form by certified mail to the Agency's Division of Water Pollution Control - Permit Section.

SPECIAL CONDITION 5: The issuance of this permit is not to be construed as an approval of the "Water Pollution Control Revolving Fund" loan program requirements.

**READ ALL CONDITIONS CAREFULLY:
STANDARD CONDITIONS**

The Illinois Environmental Protection Act (Illinois Revised Statutes Chapter 111-12, Section 1039) grants the Environmental Protection Agency authority to impose conditions on permits which it issues.

1. Unless the construction for which this permit is issued has been completed, this permit will expire (1) two years after the date of issuance for permits to construct sewers or wastewater sources or (2) three years after the date of issuance for permits to construct treatment works or pretreatment works.
2. The construction or development of facilities covered by this permit shall be done in compliance with applicable provisions of Federal laws and regulations, the Illinois Environmental Protection Act, and Rules and Regulations adopted by the Illinois Pollution Control Board.
3. There shall be no deviations from the approved plans and specifications unless a written request for modification of the project, along with plans and specifications as required, shall have been submitted to the Agency and a supplemental written permit issued.
4. The permittee shall allow any agent duly authorized by the Agency upon the presentations of credentials:
 - a. to enter at reasonable times, the permittee's premises where actual or potential effluent, emission or noise sources are located or where any activity is to be conducted pursuant to this permit;
 - b. to have access to and copy at reasonable times any records required to be kept under the terms and conditions of this permit;
 - c. to inspect at reasonable times, including during any hours of operation of equipment constructed or operated under this permit, such equipment or monitoring methodology or equipment required to be kept, used, operated, calibrated and maintained under this permit;
 - d. to obtain and remove at reasonable times samples of any discharge or emission of pollutants;
 - e. to enter at reasonable times and utilize any photographic, recording, testing, monitoring or other equipment for the purpose of preserving, testing, monitoring, or recording any activity, discharge, or emission authorized by this permit.
5. The issuance of this permit:
 - a. shall not be considered as in any manner affecting the title of the premises upon which the permitted facilities are to be located;
 - b. does not release the permittee from any liability for damage to person or property caused by or resulting from the construction, maintenance, or operation of the proposed facilities;
 - c. does not release the permittee from compliance with other applicable statutes and regulations of the United States, of the State of Illinois, or with applicable local laws, ordinances and regulations;
 - d. does not take into consideration or attest to the structural stability of any units or parts of the project;
 - e. in no manner implies or suggests that the Agency (or its officers, agents or employees) assumes any liability, directly or indirectly, for any loss due to damage, installation, maintenance, or operation of the proposed equipment or facility.
6. Unless a joint construction/operation permit has been issued, a permit for operating shall be obtained from the agency before the facility or equipment covered by this permit is placed into operation.
7. These standard conditions shall prevail unless modified by special conditions.
8. The Agency may file a complaint with the Board for suspension or revocation of a permit:
 - a. upon discovery that the permit application contained misrepresentations, misinformation or false statement or that all relevant facts were not disclosed; or
 - b. upon finding that any standard or special conditions have been violated; or
 - c. upon any violation of the Environmental Protection Act or any Rules or Regulation effective thereunder as a result of the construction or development authorized by this permit.